

## Governing Body

337th Session, Geneva, 24 October–7 November 2019

GB.337/INS/6(Rev.1)

---

Institutional Section

INS

---

Date: 23 October 2019

Original: Spanish

### SIXTH ITEM ON THE AGENDA

## **Follow-up to the decision adopted by the Governing Body at its 334th Session to support the National Tripartite Agreement of November 2017 aimed at implementing the road map: Progress report by the Government of Guatemala on action taken**

1. At its 334th Session (October–November 2018), the Governing Body declared closed the procedure under article 26 of the ILO Constitution concerning the complaint alleging non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). That decision established that, in line with the National Tripartite Agreement of November 2017, the Government of Guatemala would report on the further action taken to achieve a sustained and comprehensive implementation of the road map adopted in 2013 at the Governing Body sessions of October–November 2019 and October–November 2020 as part of the follow-up to the complaint.<sup>1</sup>
2. In accordance with the above, this document contains first of all the information provided by the Government of Guatemala on the additional measures adopted to implement the road map (Appendix I). In this respect, the Government states that: (i) the report sent is the outcome of the meeting held on 13 August 2019 by the Subcommittee on Implementation of the Road Map of the National Tripartite Committee on Labour Relations and Freedom of Association, which includes the statements made by the country's tripartite constituents during the same; (ii) on 27 August 2019 the draft report was sent to the social partners for them to provide any input they considered appropriate;
3. On 30 September 2019, the Autonomous Popular Trade Union Movement of Guatemala and the Global Unions of Guatemala sent a communication to the ILO containing their

<sup>1</sup> [GB.334/PV](#), para. 401.

observations on the status of implementation of the road map. The date of receipt of those observations did not allow for the translation of the whole of the communication, which is why a summary of it is being provided (Appendix II). The members of the Governing Body who wish to do so may ask the secretariat for the full version of the communication in Spanish.

## **Draft outcome**

### **4. *The Governing Body:***

- (a) took note of the report sent by the Government and of the observations communicated by the trade union federations; and*
- (b) recalled that, in accordance with the decision adopted at its 334th Session (October–November 2018), the Government of Guatemala would report at the Governing Body session of October–November 2020 on the further action taken.*

## Appendix I

### Report sent by the Government on the additional measures taken to achieve a sustained and comprehensive implementation of the road map

#### Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) road map report

The Government of Guatemala, through the Ministry of Labour and Social Welfare, as part of the National Tripartite Committee on Labour Relations and Freedom of Association, states that:

- Whereas, under the national tripartite agreement signed in Geneva, Switzerland in November 2017, the National Tripartite Committee on Labour Relations and Freedom of Association agreed to “report annually to the ILO Governing Body, at its November session and in public, on progress in the implementation of the road map, until 2020”;
- whereas decision GB.334/INS/9(Rev.), adopted by the Governing Body at its 334th Session, establishes that the Government of Guatemala must report on the further action taken at the Governing Body sessions of October–November 2019 and October–November 2020;
- whereas the National Tripartite Committee on Labour Relations and Freedom of Association, created by Ministerial Agreement No. 45-2018 of the Ministry of Labour and Social Welfare as a permanent, high-level tripartite body, governed by the principles of consultation, guidance, dialogue, transparency, prevention, independence, innovation, equality and being free of charge, has strengthened its efforts and its collaboration with its respective subcommittees in order to build on previous action and ensure that the positive process of social dialogue leads to the full, effective and sustainable implementation of the road map;
- whereas the Governing Body firmly calls on the Government to continue to dedicate all necessary resources and efforts to achieving the full and sustainable implementation of the other provisions of the road map, together with the Guatemalan social partners and with the technical assistance of the Office;
- on 13 August 2019, Guatemalan state institutions presented, within the Subcommittee on Implementation of the Road Map, the institutional results for the established key indicators. An interactive dialogue was held between the employer, worker and government sectors with a view to enabling the Subcommittee to fulfil the mandate assigned to it by Ministerial Agreement No. 45-2018, namely drafting the reports required by the ILO and developing the road map and each of its indicators up until full implementation. This road map report is the outcome document of the Subcommittee’s meeting and includes the interventions of all sectors. The results of the exercise are displayed in the boxes of Key Indicators Nos 1 to 9 in this report, alongside a neutral account of the facts as presented by the institutions concerned.

#### **Appendix 1: Invitation, agenda, list of participants and aide-memoire of the Subcommittee on Implementation of the Road Map, 13 August 2019**

- In accordance with section 24 of Ministerial Agreement No. 45-2018, a copy of all the activities of the National Tripartite Committee and its Subcommittees was sent to the International Labour Affairs Unit of the Ministry of Labour and Social Welfare for the purpose of informing the International Labour Organization (ILO);
- mindful of the need to maintain fluid communication and coordination with all social partners, the International Affairs Unit of the Ministry of Labour and Social Welfare emailed, on 27 August 2019, the draft “Freedom of Association and Protection of the Right to Organise Convention, 1948

(No. 87) tripartite road map report” to the members of the National Tripartite Committee so that they could make the comments and contributions they deemed relevant.

***Appendix 2: Email sent to the members of the National Tripartite Committee***

- In the Committee’s ordinary meeting of 5 September 2019, the above-mentioned document was revised by the parties and it was agreed, at the workers’ request, that the workers’ comments would be made available by 12 September 2019, i.e. ahead of the text submission deadline set by the ILO in communication Ref. ACD 14-53 as 15 September 2019.

***Appendix 3: Invitation, agenda, list of participants and aide-memoire of the Subcommittee on Implementation of the Road Map, 5 September 2019***

- On 12 September 2019, the Chairperson of the National Tripartite Committee received a communication signed by the worker sector representatives (attached), in which they express their inability to reach consensus owing to not having had enough time to discuss the document.

***Appendix 4: Communication received from the worker sector on 12 September 2019***

- The Chairperson of the Committee answered the same day, indicating that the Office would be asked to extend the deadline for the submission of the report via Official Communication No. CNTRLLS-05-2019.

***Appendix 5: Communication No. CNTRLLS-05-2019 from the Chairperson of the Committee***

- Following the request to the Office made by the Chairperson of the National Committee, on 13 September 2019 the worker sector was informed that the ILO had extended the deadline for the submission of the report to 20 September 2019. This meant that the workers’ comments would be required by 18 September to allow for all constituent members’ comments to be assembled in a single document, in line with Official Communication No. CNTRLLS-06-2019.

***Appendix 6: Communication No. CNTRLLS-06-2019 from the Chairperson of the Committee***

- As the deadline for comments passed without the worker sector commenting either verbally or in writing on the draft report, on 20 September 2019 the Government of Guatemala is reporting the following regarding its monitoring and enforcement of the pending items referred to in the Governing Body’s decision:

## A. Actions planned by the National Tripartite Committee and their results

*Table No. 1*

*Actions Planned by the National Tripartite Committee, 2019*

No.	Planned actions	Results achieved
1	To hold two ordinary meetings of the National Tripartite Committee on Labour Relations and Freedom of Association per month.	<p>From November 2018 to April 2019, dialogue between the sectors was disrupted until the worker sector submitted a list of demands, on which several informal meetings were held, resulting in the meetings of the National Tripartite Committee being resumed in May.</p> <p>During the same period, in January 2019, a mission was undertaken by Mr Adolfo Ciudad regarding the legislative reforms envisaged in point 5 of the road map, and the Ministry of Labour and Social Welfare invited the three sectors to meet, although only the employer and government sectors replied to the invitation.</p> <p><b>1. Meeting: 9 May.</b> Mr José González Campo of the employer sector was elected as Chairperson of the National Tripartite Committee. It was proposed that the Committee should discuss, among other things: employment creation, the Civil Service Act, and the Act on the National Tripartite Committee on Labour Relations and Freedom of Association.</p> <p><b>2. Meeting: 5 July.</b> The discussion covered the Part-Time Work Convention, 1994 (No. 175), the Frito Lay case, and draft tripartite communiqués pertaining to freedom of association and protection of the right to organize. The Committee asked for an update on the status of each subcommittee and expressed an interest in pursuing the task of bringing national legislation into line with the Conventions, in accordance with the recommendations made by the Committee of Experts on the Application of Conventions and Recommendations (CEACR).</p> <p><b>3. Meeting: 22 July.</b> Each Subcommittee presented the progress it had achieved and its plans for 2019, with measurable and achievable actions. The Committee noted the planned activities and asked for points of interest to be included in the plans. The Committee welcomed Mr Ignacio Niño of the Ministry of Labour of Spain, who will be providing the Committee with technical assistance in the area of social dialogue following a request sent by the Ministry of Labour and Social Welfare to its counterpart in Spain.</p> <p><b>4. Meeting: 5 August.</b> The ILO technical assistance programme for the National Tripartite Committee on Labour Relations and Freedom of Association, mentioned in Governing Body decision GB.334/INS/9(Rev.) (November 2018) was approved. The following issues were discussed: the hiring of the independent mediator and the criteria for his or her duties, and the request from the Committee for Congress to consider drafting three articles in the Act establishing the Committee.</p> <p><b>Appendix 7: Aides-memoires Nos 1-2019, 2-2019, 3-2019</b></p>

2	To comply with subparagraph (e) of the Governing Body's decision, which requests the implementation without delay of a robust and comprehensive technical assistance programme to ensure the sustainability of the current social dialogue process as well as further progress in the implementation of the road map.	<p>In March 2019, Guatemala received an ILO mission composed of high-level representatives from Geneva and Panama for the purpose of holding tripartite discussions on the content of the Technical Assistance Programme. The ILO had invited all three sectors to participate, but only the employer and government sectors attended.</p> <p><b>Meeting: 5 August.</b> The Committee approved the technical assistance programme proposed by the ILO, with three immediate objectives and a number of outcomes.</p> <p><b>Immediate objective 1:</b> "The National Tripartite Committee on Labour Relations and Freedom of Association, its subcommittees and other key bodies for the development of social dialogue, will have their sectoral and tripartite capacities strengthened in the areas of agreement negotiation, definition and implementation". The proposed programme consisted of 11 outcomes, with the National Tripartite Committee adding an additional outcome (1.12): "Facilitation of social dialogue to address economic recovery issues alongside decent work".</p> <p><b>Immediate objectives 2 and 3</b> were approved with their accompanying outcomes.</p> <p><b>Appendix 8: Presentation of the ILO Assistance Programme</b></p>
3	<p>Submission of reports on the Conventions, in accordance with the calendar published by the ILO (CEACR), in compliance with Article 5 of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).</p> <p>To examine the recommendations of the Committee on Freedom of Association in case No. 3250, declared final in the 389th Report of the Committee on Freedom of Association (June 2019).</p> <p>To present the Government's national wage policy to the Committee.</p>	<p><b>Meeting: 5 August.</b></p> <p>The 11 reports on Conventions Nos 87, 97, 98, 100, 110, 111, 122, 149, 156, 169 and 175 were presented to the sectors of the National Tripartite Committee electronically, in the meeting and by mail.</p> <p>The Subcommittee on Legislation and Labour Policy was designated to familiarize itself with the recommendations issued by the Committee on Freedom of Association in case No. 3250 and transmit them to the National Tripartite Committee.</p> <p>The Minister of Labour and Social Welfare submitted the draft national wage policy for comments by the three sectors. The employer sector sent comments on the document presented.</p> <p><b>Appendix 9: Aide-memoire No.4-2019</b></p>
4	Revision of and dialogue on the draft road map report, to be presented to the ILO Governing Body at its 337th Session.	<p><b>Meeting: 5 September.</b> A draft version of the road map report was presented. The draft had previously been sent to Committee members on 27 August for their information and comments. The employer sector sent comments on the draft report on 3 September. The proposed changes were included in the version presented at the tripartite meeting, which was sent to all sectors for comments at the request of the worker sector. Tripartite letters were signed to:</p> <ol style="list-style-type: none"> <li>1. The Minister of the Interior, requesting the reactivation of the Department for the Assessment of Assaults on Human Rights Defenders (to promote Key Indicator 3 of the road map).</li> <li>2. The Chairperson of the Congressional Labour Committee, calling for the prompt creation of the Act on the National Tripartite Committee as well as requesting a hearing</li> </ol>

		to discuss the Act, which was granted (the Subcommittee on Legislation and Labour Policy is dealing with this matter). 3. The Director of the International Labour Standards Department of the ILO, requesting that the case of Guatemala be heard by the ILO Governing Body at its 337th Session, between 4 and 5 November 2019. <b>Appendix 10: Aide-memoire No. 06-2019 and copy of letters</b>
5	Discussion of the Subcommittees' priority issues and challenges: legislation, mediation and road map.	1. Follow-up to submitted work plans. 2. Regulations for the Subcommittee on Mediation. 3. Proposals for the independent mediator put forward by sector. 4. Allocation of resources for the hiring of the Independent Mediator. 5. Criteria for the assignment of functions to the Independent Mediator. 6. Follow-up to specific cases with the Public Prosecutor's Office and the Ministry of the Interior. <b>Seen in various aides-memoires of the Committee</b>

## B. Subcommittees

All of their activities are in conformity with the provisions of Ministerial Agreement No. 45-2018, which defines their duties.

### B.1. Subcommittee on Legislation and Labour Policy

At the first meeting of the National Tripartite Committee, held on 9 May 2019, it was decided that the Committee should initially address issues related to “employment creation, the Civil Service Act, and compliance with the road map, as well as the reactivation and operation of the Subcommittees”.

At its second and third meetings, the Committee discussed its initial work plan, among other topics. In relation to the activities carried out in 2019, the Subcommittee on Legislation informed the Committee that:

1. A draft Ministerial Agreement is being developed to establish “regulations for the procedure of negotiating, standardizing and reporting collective agreements on conditions of work in public institutions and centralized, decentralized and autonomous entities, and the approval of collective agreements by public institutions”, which would give impetus to the road map.
2. Congress has forwarded Bills Nos 5508 (Act on the National Tripartite Committee on Labour Relations and Freedom of Association), 5281 (amendments to articles 61(ñ)(3), 152 and 153 of the Labour Code), 5477 (Act regulating the Part-Time Work Convention, 1994 (No. 175)), all of which remain to be analysed and submitted to the Committee for it to give its opinion to Congress, with the exception of Bill No. 5508, which was submitted to the Congressional Labour Committee on 12 September 2019.

In relation to the Subcommittee's work plan, it was stressed that there was a need to progress with the following:

1. Aligning national legislation with international legislation with respect to the observations made by the CEACR regarding Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); and
2. The current timetable for the Subcommittee, which covers the following:

- (i) Topics relating to the bills sent by Congress for tripartite opinion (regarding the right to strike and industry trade unions), which the Subcommittee will submit as soon as possible to the National Tripartite Committee.
- (ii) Regulations to standardize collective agreements on conditions of work in the public sector, provided that they aim to improve the standardization procedure for collective agreements within the public administration. It should be noted that the Ministerial Agreement on Standardization has already been commented on by institutions.
- (iii) Analysis of the recommendations made by the Committee on Freedom of Association on case No. 3250, in paragraph 411 of its 389th Report (June 2019).

**Table No. 2**

*Timetable observed by the Subcommittee on Legislation and Labour Policy along with its activities (August 2019)*

No.	Activities	2019					Expected outcome
		Aug.	Sep.	Oct.	Nov.	Dec.	
1	Analysis and proposal on Bill No. 5508, which provides for the adoption of the Act on the National Tripartite Committee on Labour Relations and Freedom of Association	5					Proposal already presented to Congress (12 September)
2	Draft Ministerial Agreement on the standardization of collective agreements on conditions of work		3				To be commented on and approved by the National Committee
3	Topics: Right to strike and industry trade unions			X			Tripartite dialogue meetings
4	Discussion with Congress so that it legislates on the issues previously agreed on (sent in a note of 7 March 2018)			X			To be presented to the ILO Governing Body at its 337th Session
5	Regulation (steps for issuing an opinion on bills sent by Congress)		X				Regulation approved
6	Analyse and attend to the CEACR recommendations from 2018 and 2019		X	X	X	X	Produce a report on the recommendations issued by the CEACR

Note: Produced by the Technical Secretariat of the Subcommittee on Legislation and Labour Policy.

**PROGRESS:** In response to the tripartite request of 12 September 2019, the Congressional Labour Committee granted a hearing to the National Tripartite Committee on 18 September in order to discuss Bill No. 5508 (Act on the National Tripartite Committee), with the Chairperson of the Congressional Labour Committee, Mr Gabriel Heredia, having stated that on two occasions he had asked the board of directors and later, the heads of sectors, for the Bill to be included on the agenda. Discussions were held on the background to the Bill as well as the partial redrafting of articles 4 and 5, and the complete redrafting of article 7, following the comments expressed by the government and employer sectors. The worker sector declined to participate. Mr. Heredia spoke of completing all the actions necessary for the Act to be adopted in 2019.

#### **Appendix 11: Aide-memoire sent to members by email.**



## B.2. Subcommittee on Mediation and Dispute Settlement

The Subcommittee was created as part of the Committee to assume the functions previously performed by the Committee for the Treatment and Resolution of Disputes before the ILO, and in accordance with the tasks mandated under article 4.2 of Ministerial Agreement No. 45-2018, in order to promote and propose solutions to disputes and complaints on freedom of association and collective bargaining that are submitted for its consideration. Among other data provided, this Subcommittee informed the Committee for the Settlement of Disputes before the ILO about complaints and their current status, which are on file.

*Table No. 3*  
*Report of status on the complaints received by the Subcommittee on Mediation and Dispute Settlement (as at February 2019)*

<b>ADMITTED COMPLAINTS WITH PENDING PROCEDURES</b>		
<b>No.</b>	<b>No. of the claim</b>	<b>Union/status</b>
1	001-2016	San Miguel Dueñas Workers' Union in the department of Sacatapéquez. An email was sent to the Mayor asking him to propose the points agreed in the meeting.
2	001-2017	Coordinating Body of Unionized Workers of Pepsico Guatemala (SINTRAFRITOLAY-GUA, SITRAGFLF and SITRFRITOLAY). The employer sector was invited to participate in the mediation process.
3	005-2015	General Union of Cooperative Inspectorate Employees (STINGECOP). The union was asked to indicate whether or not it wished to continue with the mediation process.
4	004-2016	Union of Workers of the Government body the Social Welfare Secretariat of the Office of the President of the Republic of Guatemala (SINTRASEBS). The union was asked to indicate whether or not it wished to continue with the mediation process.

<b>NEW COMPLAINTS THAT HAVE NOT YET BEEN ADMITTED</b>		
1	001-2018	Union of Workers of the National Registry Office (SITRARENAP). Received by the Subcommittee on 31 January 2018. A complaint is currently before the Committee on Freedom of Association in the form of new allegations in case No. 3042.
2	002-2018	Union of Workers of the Ministry of Energy and Mines (SITRAMEM). A scanned dossier was emailed to the three sectors on 19 November 2018.
3	003-2018	Union of Workers of the Municipality of Panajachel, Sololá (STRIBMUPA). A scanned dossier was emailed to the three sectors on 19 November 2018.
4	004-2018	Union of Workers of the National and Daily Typographers of Central America. A scanned dossier was emailed to the three sectors on 27 November 2018.
5	01-2019	Union for the Unity and Advancement of the Workers of Empagua (SUPRAGUA). A scanned dossier was emailed to the three sectors on 8 January 2019.
6	02-2019	Union of Workers of the Secretariat of Agrarian Affairs. A scanned dossier was emailed to the three sectors on 8 January 2019.

PENDING COMPLAINT		
1		Municipality of Jalapa – Meeting with Mr Carlos Mancilla.

Note: Produced by: Technical Secretariat of the Subcommittee on Mediation and Dispute Settlement.

The Technical Secretariat gave information about the status of the complaints brought to its attention to its constituents on 27 January 2019, and to the National Tripartite Committee at its meeting on 22 July 2019. That information is reproduced in table 3 of this report.

It should be noted that the Committee's February 2019 meeting covered the following:

- (i) presentation of a brief analysis of the progress and proposed work plans of each Subcommittee;
- (ii) other business: Mr Carlos Mancilla of the worker sector asked for the Frito Lay case (Case No. 3363 before the Committee on Freedom of Association) to be addressed. The Subcommittee has admitted the case as No. 001-2017 (procedures still pending), as noted by the National Tripartite Committee in its aide-memoire No. 02-2019 (attached), in paragraph 22 on Frito Lay.

The Subcommittee is still working on its rules of procedure so that it can present them once again to the National Tripartite Committee for approval when it presents its proposals for independent mediator.

### B.3. Subcommittee on Implementation of the Road Map

At its second meeting (5 July 2019), the National Tripartite Committee took note, in Other Business requested by the Government sector, of the proposals for communiqués on freedom of association and collective bargaining.

At the meeting of the National Tripartite Committee held on 22 July, the Subcommittee presented its work plan for the months ahead, with measurable, attainable and realistic actions. The worker sector representative said that the reports sent to Geneva had been approved ad referendum and that they should be authorized by the Committee in order to be sent in a tripartite manner. At the request of the members, employer sector representative Mr. Guido Ricci became Chairperson of the Subcommittee.

*Table No. 4*

*Work plan: Subcommittee on Implementation of the Road Map presented at the third ordinary meeting of the National Tripartite Committee, held on 22 July 2019*

No.	Activities	2019						Result
		07	08	09	10	11	12	
1	Presentation of the draft report on implementation of the road map		16					Receive comments and approval
2	Holding of monthly bilateral meetings with institutions responsible for fulfilling key indicators of the road map: one per month to be held	24	13					Analysis
3	Development of training on "collective bargaining", with lawyers from the Constitutional Court		20					Get to know relevant judgments
4	Workshop on "ILO International Labour Standards and institutional criteria regarding duly executed reinstatement orders" <sup>1</sup>		8-9					Improve the results of Key Indicator 5
5	Development of the "Report on the objective assessment of the progress achieved regarding the road map"			5				It was presented to the National Committee

Note. Developed by the Subcommittee on Implementation of the Road Map.

<sup>1</sup> For members of the Public Prosecutor's Office, the judiciary (criminal judges), the Constitutional Court (lawyers) and the Ministry of Labour and Social Welfare (general labour inspectorate), with the support of the ILO.

Table No. 5

*Activities carried out in compliance with the road map  
and the results achieved, as at August 2019*

No.	Activities	Date	Results
1	Workshop on “ILO International Labour Standards and institutional criteria regarding duly executed reinstatement orders”	8–9 Aug.	32 persons – labour and criminal law judges, prosecutors from the Public Prosecutor’s Office, lawyers from the criminal law labour department of the Constitutional Court, and personnel from the Ministry of Labour and Social Welfare – participated in the event on international labour standards and institutional criteria regarding duly executed reinstatement orders, which was held with the support of the ILO. This was the first coordination effort made by institutions to achieve results on Indicator 5 of the road map. <a href="#">Appendix 12: Aide-memoire and inter-institutional coordination letters</a>
2	Holding a meeting of the Subcommittee on Implementation of the Road Map with the inter-institutional board consisting of the Public Prosecutor’s Office, the Ministry of the Interior, the judiciary, and the Ministry of Labour and Social Welfare	13 Aug.	Meeting to address the case recommendations of the Committee on Freedom of Association, the comments of the CEACR, and monitoring the implementation of Key Indicators 1, 2, 3, 5, 7, 8 and 9 of the road map <a href="#">Appendix 13: Aide-memoire of 13 August 2019</a>
3	Drafting of the “Report on the objective assessment of progress made on the road map”	5 Sep.	Presentation of the structure and content of the report on compliance with the road map for comments and/or approval by the Committee

Note. Developed by the Subcommittee on Implementation of the Road Map.

The Subcommittee’s practical workshops are being revived and cases are being revised with the Public Prosecutor’s Office and the Ministry of the Interior. This allows for cases to be analysed one at a time in terms of the investigations and issues relating to security measures.

Regarding the assessment of compliance with the road map, this Subcommittee is mandated, under section 4 of Ministerial Agreement No. 45-2018, to: (a) guide the actions necessary for the implementation of the road map and the key indicators by undertaking an objective assessment of the progress achieved and taking consensus-based decisions on unresolved issues; and (b) resolve conflicts that may arise from the implementation of the road map, among other things. With that in mind, the draft road map report was produced with inputs from the aide-memoire of the meeting of the Subcommittee on Implementation of the Road Map held on 13 August 2019 (attached).

*Key Indicator No. 1: Significant increase in the number of cases of murders of union officials and members reported to the ILO that have been investigated and have led to convictions*

The Government of Guatemala recalls that, through information provided by the Public Prosecutor’s Office, it reported to the Governing Body in November 2018 that the 90 cases of deaths of trade unionists had given rise to 18 convictions and four acquittals. At the present time (September 2019), two additional convictions have been obtained, in the cases of Tomás Francisco Ochoa and David Figueroa.

Case of David Figueroa: The Public Prosecutor’s Office refers to the facts contained in file No. MP001-2018-2959, and case No. 17004-2018-00354; and that, on 31 July 2019, the Court of Criminal Judgment of San Benito, Petén, sentenced Miguel Ángel Alvarado De León to 15 years’ imprisonment. In the case of Tomás Francisco Ochoa Salazar, the Public Prosecutor’s Office reported that a public hearing took place, and that the 13th Court of Criminal Judgment sentenced Gerson Emilio Ovando Salazar to 25 years’ imprisonment for the murder of Mr. Ochoa Salazar. The Public Prosecutor’s

Office indicated that it has appealed the court's decision in order to increase the number of convictions in the case.

It should be noted that the above-mentioned cases, which have given rise to convictions, relate to crimes committed in 2017 (Tomás Ochoa Salazar) and 2018 (murder of David Figueroa), with a period not longer than one year and ten months between the commission of the crime and the imposition of the sentence. The Public Prosecutor's Office attributes this to the judiciary's ability to find space in its calendar for the hearings.

During the meeting with the Subcommittee on Implementation of the Road Map on 13 August 2019, the Public Prosecutor's Office reported on the items listed below, which pertain to cases referred to this Subcommittee by the Committee on Freedom of Association, which made recommendations on Case No. 2609 in paragraph 414 of its 387th Report (November 2018):

1. Jorge Barrera Barco
2. Death of three members of the Union of Commercial Workers of Coatepeque
3. Case of Alejandro García Felipe, Domingo Hernández and Juan Carlos Chavarría
4. Crime trend affecting members of the Union of Commercial Workers of Coatepeque
5. Reported death threats against various members of the Tiquisate Workers' Union (SEMOT)
6. An indication of the highest potential number of murders of members of the trade union movement according to courts that have jurisdiction for high-risk proceedings (considerations of the Public Prosecutor's Office)
7. Legal status of the 12 cases being investigated by the International Commission against Impunity in Guatemala (CICIG) and the Public Prosecutor's Office under the collaboration agreement signed between these bodies (at the request of the trade unions)
8. Certified reports of the results of reinstatement cases
9. Status of all cases of murders of trade union leaders and members
10. Full implementation of General Directive No. 1/2015 of the Public Prosecutor's Office so that the possible anti-union motive for the murder of members of the trade union movements fully and systematically taken into account in planning and conducting investigations.

Table No. 6

*Crime trend, Analysis Unit, Human Rights Ombudsman's Office, 2019:  
members of the Union of Commercial Workers of Coatepeque*

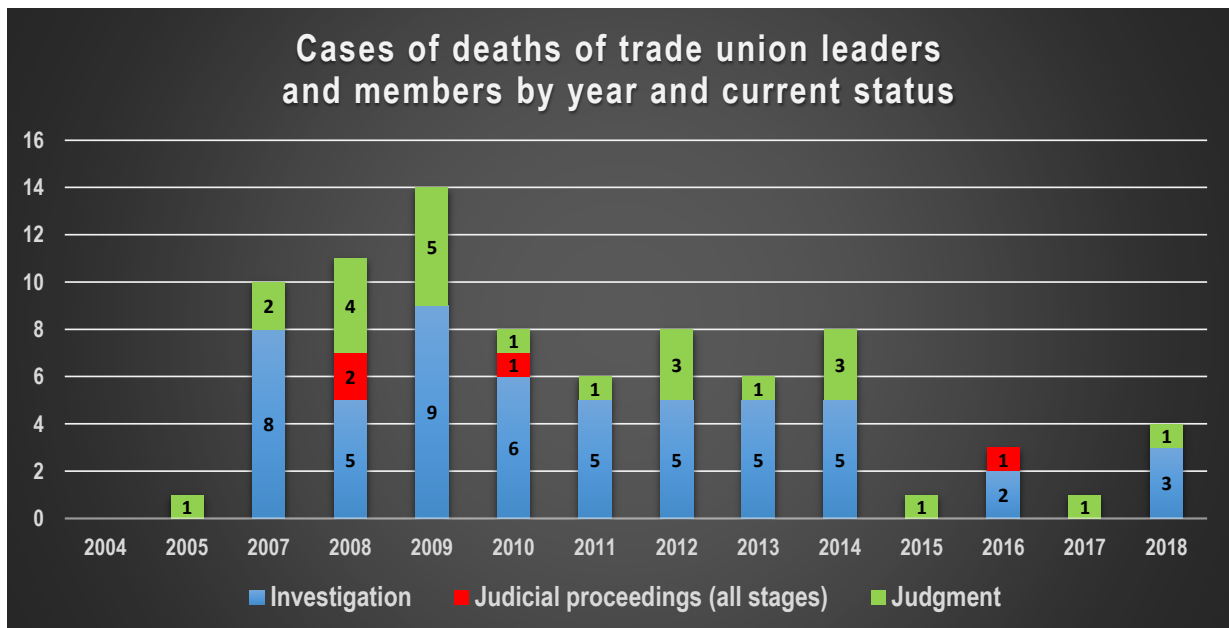
TIMELINE OF EVENTS BEFORE, DURING AND AFTER THE EVICTION OF COMMERCIAL WORKERS FROM THE COATEPEQUE MARKET, 2008–09					
Chronology of events	23 Dec. 2008	13 Jan. 2009	17 Mar. 2009	6 Oct. 2009	Oct. 2009
Account of the facts	<b>ARMANDO DONALDO SANCHEZ BETANCOURT</b> Murdered at 4a. Av. 5-95, el Rosario, zone 2. A lawyer in the traders' union who was legally defending the traders, he had received death threats.	<b>AMADO CORAZON MONZON</b> , commercial worker on the traders' board of directors, assassinated outside his place.	<b>LUIS AROLDO GARCIA AVILA</b> , commercial worker, murdered.	<b>MIGUEL CHACAJ JAX</b> Commercial worker member of the traders' union, assassinated on 6 October during a violent eviction operation carried out by agents of the Municipal Police, who opened fire indiscriminately. The victim died in hospital from two gunshot wounds.	More than 15 commercial workers were injured and taken to hospital. Afterwards, many fled the municipality and hid in order to avoid capture by the Municipal Police.
Timing of events	BEFORE (2008)			DURING (Oct. 2009)	AFTER (Oct.–Nov. 2009)
Municipal government	Mayor Edwin Rolando Vega (2008–10 +)				
Bodies responsible for security	NATIONAL CIVIL POLICE			MUNICIPAL POLICE MUNICIPALITY OF COATEPEQUE Head of the Municipal Police, JULIO CESAR MACARIO GOMEZ	
Responsibility for the killings	The National Civil Police stayed on the sidelines of the security during the period in which the events took place			Chain of command responsibility in the execution of the violent evictions, murders and assaults of commercial workers at the Coatepeque market  <div style="text-align: center;"> <p><b>Mayor, Edwin Rolando Vega</b></p> <p>↓</p> <p><b>Head of the municipal government, Oscar de Leon</b></p> <p>↓</p> <p><b>Municipal Police Director, Julio Cesar Macario Gómez</b></p> </div>	

The table corresponds to the Committee on Freedom of Association's recommendation regarding Case No. 2609, given in paragraph 414 of its 387th Report (October–November 2018), which requests the identification of the criminal trend which affected the members of the Union of Commercial Workers of Coatepeque and which is connected to the deaths of three of its members. The analysis was carried out by the Analysis Unit of the Human Rights Ombudsman's Office, under which the Special Investigation Unit for Crimes against Trade Unionists also operates.

**Appendix 14: Presentation by the Public Prosecutor's Office to the Subcommittee on Implementation of the Road Map (13 August 2019)**

Table No. 7

*Historical context of cases of deaths of trade union leaders  
and trade unionists 2004 to 2018*



Source: Produced by: International Affairs, Ministry of Labour, August 2019.

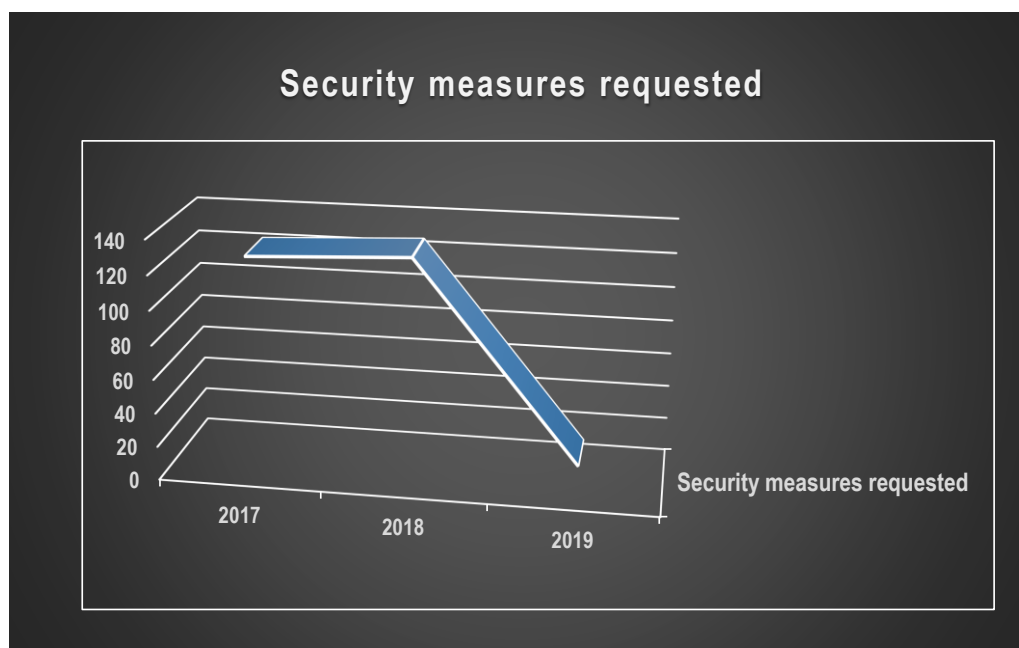
Of a total of 90 cases, 53 are currently in the investigation phase, 24 have been judged and 4 have pending proceedings (statistics compiled at the request of the National Tripartite Committee in its meeting of 5 September 2019).

*The National Tripartite Committee on Labour Relations and Freedom of Association urges the Public Prosecutor's Office to continue its investigations into the cases, which are mandated by law to provide prompt and full justice. Given that it transpired, at the meeting between the Subcommittee on Implementation of the Road Map and the inter-institutional board held on 13 August 2019, that one of the factors that helped to obtain prompt sentencing in the cases of Tomás Ochoa and David Figueroa was the availability in the judiciary's calendar, it is **recommended** that the National Tripartite Committee itself should find available slots with the Criminal Chamber of the Supreme Court of Justice so that cases involving the deaths of trade union leaders and trade unionists can receive special treatment, and a date can promptly be assigned for any hearings requested by the Public Prosecutor's Office.*

*Key Indicator No. 2. Conduct, together with the relevant trade union organizations, of risk studies for all threatened union officials and members and the adoption of appropriate protection measures*

The Government of Guatemala, through information provided by the Ministry of the Interior, reported progress regarding the risk studies and protection measures assigned to trade union leaders and members. A representative of the Ministry of the Interior, namely the Subinspector of the National Civil Police, Mr Luis Alberto de Jesús of the Risk Analysis Department of the Personal Protection Division, explained how the various requests for protection measures had been processed, in particular those received from the Public Prosecutor's Office and the Human Rights Ombudsman. Moreover, he indicated that **125** requests for protection measures had been received in 2017 from the Public Prosecutor's Office, the Ministry of Labour and Social Welfare, the Human Rights Ombudsman and the Ministry of the Interior, and that January and March were the months in which the most requests had been registered. In 2018, perimeter security measures had been awarded in **129** cases, personal security measures in 2 cases and no security measures in a further 2 cases. Thus far in 2019, out of a total of **14** requests, perimeter security measures had been awarded in 12 cases, personal security measures in 1 case, and no measures in 1 case.

*Table No. 8*  
*Requests for security measures 2017 to August 2019*



Source: Technical Secretariat of the Committee.

Moreover, it was explained that perimeter security measures are implemented by the police station nearest the trade union leader's residence, while personal security measures are only ever implemented by the Personal Protection Division. The way in which the protection measures offered are classified, in accordance with analysis criteria within the Risk Analysis Department, was also explained.

The Ministry of the Interior provided information on the protection mechanisms granted to trade union members in high-risk situations and how it is ensured that all security measures that might be required are adopted promptly. During an information exchange opportunity, the members of the Road Map Subcommittee asked the following questions: (1) Are security measures only requested through the institutions mentioned? Can an individual request them directly? The Deputy Inspector, Mr Luis Alberto De Jesús, replied that they can be requested through the Ministry of the Interior and National Civil Police staff. (2) What are the criteria for accepting or rejecting a request for security measures? The reply was that the Risk Analysis Department follows General Order No. 25-2017, which establishes the risk analysis requirements.

#### **Appendix 15: Presentation of the Ministry of the Interior**

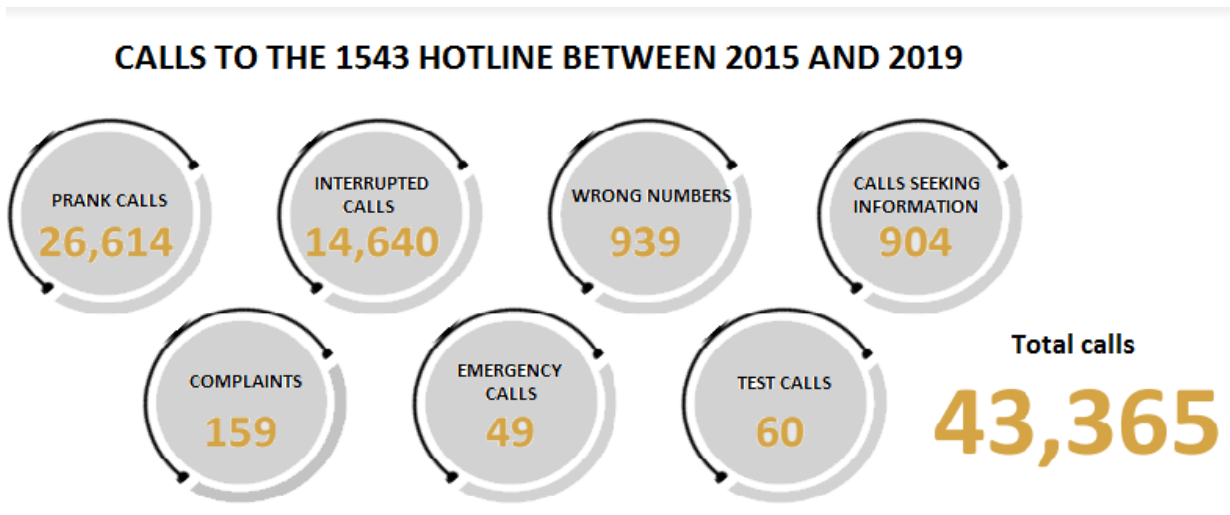
The National Tripartite Committee on Labour Relations and Freedom of Association urges the Ministry of the Interior to continue to coordinate directly with the Public Prosecutor's Office Special Investigation Unit for Crimes against Trade Unionists in order to expedite the processing of cases involving requests for security measures for union officials, union members and labour rights defenders, and **recommends** that the spaces for dialogue between the Subcommittee on Implementation of the Road Map, the Ministry of the Interior and the Public Prosecutor's Office be maintained.

*Key indicator 3: Setting up of a hotline for reporting acts of violence and threats against union officials and members*

The Government of Guatemala, through the information provided by the Ministry of the Interior, referred to the functioning of the 1543 hotline. Inspector Hugo Velásquez, who is in charge of the 1543 hotline, says that the hotline is used by union members and other groups of human rights defenders and that incoming calls may be referred. Any calls that are not immediately answered are returned. All

information that is received is forwarded to the Public Prosecutor’s Office. The operator receives two types of calls: emergency calls, where the caller requires immediate assistance because he or she is the victim of a robbery or another crime, and confidential calls, which are made when a caller does not require immediate assistance, but has received threats.

With regard to emergency calls, the call is received through software and is forwarded to a unit, via network, which is called the “dispatch operator” and is in contact with police units. The 1543 operator submits an electronic request, which is sent electronically to the dispatch operator, who then sends a unit to the site. The unit travels to the site and then reports back to the dispatch operator. All this information, whether a written report or a phone call recording, is forwarded to the Public Prosecutor’s Office, so that it may determine whether to prosecute or not. As to confidential calls, the operator listens to account of events, asks for all the details of the case, transcribes the information and sends it to the Public Prosecutor’s Office.



### BREAKDOWN OF COMPLAINTS MADE TO THE 1543 HOTLINE BETWEEN 2015 AND 2019



The hotline is open 24 hours a day, 365 days a year. The National Civil Police officers who respond to the calls are trained officers and manage the policy activity register. Since 2015, the hotline has received 26,614 prank calls; 14,640 interrupted calls (when a person calls, the operator introduces him or herself and the caller hangs up); 159 complaints (or confidential calls); 49 emergency calls; and 60 test calls. Out of all these calls, only 26 were from union members, while 208 were from people with links to union members, but who were not union members as such.

The members of the Subcommittee intervened in order to ask how calls were followed up, whether it was easy to determine whether an emergency constituted an anti-union case, and what sort of follow-up was given to each call. These questions were answered by the National Civil Police inspector and are included in the Subcommittee aide-memoire.

The National Tripartite Committee on Labour Relations and Freedom of Association urges the Ministry of the Interior to continue to coordinate directly with the Public Prosecutor’s Office Special Investigation Unit for Crimes against Trade Unionists in order to expedite the processing of cases involving requests for security measures for union officials, union members and labour rights defenders, and **recommends** that the spaces for dialogue between the Subcommittee on Implementation of the Road Map, the Ministry of the Interior and the Public Prosecutor’s Office be maintained.

The Government of Guatemala, through the information provided by the judiciary, represented by the Director of Labour Management, provides statistical data on the reinstatements that have been



granted, carried out, are being processed and/or are pending execution. The data submitted covers the period from 1 January 2017 to 8 August 2019, as this is the information available in the system.

It shows that the public sector has the largest number of requests for reinstatement (2,941) and shows the importance of taking action, primarily due to the conduct observed at the last three electoral events, when a resurgence of illegal dismissals was noted, for non-observance of the relevant procedures.

It also shows that there are 260 requests for reinstatement in the private sector. It addresses the causes of the non-determination of the sector, citing the electronic system. Out of all the cases, 368 were declared inadmissible and 1,459, admissible. The admissible cases include some reinstatements that have been carried out (679) and some that are pending execution (383). In other instances, the reinstatement has not been carried out (397), as the employer is exercising his or her right to appeal the reinstatement, and the reinstatement cannot be carried out until the appeal has been resolved. Should the employer fail to reinstate the worker and to appeal the order, the fine imposed is doubled, a new application is submitted and a new reinstatement order is issued, and if the fines are enforced, they are still collected by the judiciary (and are not related to the infringement associated with MINTRAB). When a worker is not reinstated, the subsequent order not only doubles the fine, but also requires a certified report to be sent to the Public Prosecutor's Office. Other vicissitudes arise from this process: in the case of public servants, they are not only failing to pay a fine, but also to comply with a reinstatement order. In such cases, the officials are brought to preliminary hearings. There are 3,054 cases being processed, and a total of 482 reinstatement orders under appeal. The number of certified reports to the Public Prosecutor's Office, at the national level, is 1,900.

It is pointed out that in the public sector, officials are between two paths: on the one hand, the obligation, by legal mandate, to exhaust all the instances available to them in the light of that mandate, so that a Minister cannot, in principle, grant reinstatement, if there are still remedies to exhaust. It is therefore not always a matter of wanting to delay the process, but rather, a question of the Government reforming legislation, because if officials do not follow the legally indicated processes, they may be subject to sanctions.

On the other hand, in the private sector, requests for reinstatement are slightly more feasible, as they are subject only to the guidelines of the company's board. This may be why the number of reinstatements carried out in the private sector is higher.

#### **Appendix 16: Presentation of the judiciary**

The draft code of labour and social welfare procedure was also discussed, with comments from the employer and government sectors on the proposal submitted by the Supreme Court of Justice. However, the draft code has yet to be approved by the Subcommittee or Committee.

#### **Appendix 17: Aide-memoire of 3 December 2018**

On the recommendation of the ILO supervisory bodies, issues relating to the functioning of courts with several judges were addressed.

The National Tripartite Committee on Labour Relations and Freedom of Association urges the continuation of training courses and criteria standardization meetings on the certified reports between the Public Prosecutor's Office and the judiciary, and **recommends** that the National Tripartite Committee itself meet with judges from the Supreme Court of Justice, the Attorney-General and the Office of the Attorney-General in order to discuss the challenges surrounding reinstatements.

*Key indicator 7: Launch of a wide-scale awareness-raising campaign on freedom of association and collective bargaining*

The Government of Guatemala, through the information provided by the Directorate of Social Communication of the Ministry of Labour and Social Welfare, states that since last year, there have been budgetary limitations, as well as restrictions on activities during the electoral process. However, since 12 August 2019, posts have been uploaded to social networks. The Government hopes to discuss the matter with the executive, so that these networks can be used for the campaign. Materials could be published in the *Diario de Centroamérica*, but in order to publish extensively in non-official media,

funding that is not yet available must be secured. Lastly, the Government states that in 2018, the official Facebook page of the Ministry of Labour and Social Welfare had 90,000 followers and that freedom of association publications reached 30,000 and 40,000 people. In January 2019, the systems were modified and now certain publications reach 700,000 people. The Facebook page is the fourth most active official page for an institution and ranks first in terms of growth. It is believed that the page will have greater reach in the future.

In addition, the leaders of the Subcommittee on Implementation of the Road Map were informed that the proposals for communiqués relating to compliance with Conventions Nos 87 and 98, including the dismissals of, inter alia, union officials and members within Guatemalan municipalities, were sent to the members of the National Tripartite Committee on Labour Relations and Freedom of Association. The proposals were sent electronically to the members on 31 July 2019. The proposal has already received comments from the employer and government sectors. At the meeting on 5 September, the worker sector was reminded to send its comments so that a tripartite communiqué may be issued.

#### Appendix 18: Two communiqués drafted

The National Tripartite Committee on Labour Relations and Freedom of Association urges the continuation of the actions required for the dissemination of the principles of freedom of association and protection of the right to organize, and **recommends** that the National Tripartite Committee itself continue to issue tripartite statements on the importance of freedom of association and collective bargaining.

*Key indicator 8: Unimpeded registration of trade union organizations without hindrance in the Trade Union Register of the Ministry of Labour and Social Welfare (with an indication of the number and dates of the registration applications and the number and dates of both rejected and approved applications)*

The Government of Guatemala, through the information provided by the General Directorate of Labour (DGT), reports on the registration process for trade unions. It provides the following data, which covers the registrations made with the DGT from 2012 to 2019:

*Table No. 9  
Registration of trade unions in the public and private sectors  
from 2012 to August 2019*

<i>Year</i>	<i>Public sector</i>	<i>Private sector</i>	<i>Total</i>
<i>2012</i>	<i>38</i>	<i>46</i>	<i>84</i>
<i>2013</i>	<i>11</i>	<i>7</i>	<i>18</i>
<i>2014</i>	<i>6</i>	<i>13</i>	<i>19</i>
<i>2015</i>	<i>31</i>	<i>21</i>	<i>52</i>
<i>2016</i>	<i>73</i>	<i>20</i>	<i>93</i>
<i>2017</i>	<i>37</i>	<i>24</i>	<i>61</i>
<i>2018</i>	<i>12</i>	<i>3</i>	<i>15</i>
<i>2019 (up to August)</i>	<i>14</i>	<i>5</i>	<i>19</i>

Note: Data provided by the DGT, Ministry of Labour and Social Welfare.

Víctor Recinos of the DGT reports that 59 applications have been received in 2019: of those, 19 unions have been registered, 11 applications have been denied and 29 applications are being processed. With regard to the denied applications, he says that the people (organizations) did not meet the requirements, such as with the minimum number of members required to form a union, or prerequisites. He adds that a trade union booklet, a tool created by the DGT to facilitate registration, is being issued. The booklet contains model records, calls, time frames and assistance to ensure faster processing. The booklet not only contains the procedure for registering unions, but also the procedure for registering federations and confederations, as well as the obligations established in article 225 of the Labour Code, such as the registration of the leaders.

Another step that has been taken to facilitate registration is the meetings that have been held through the secretariat or undersecretariat: meetings with union leaders, explaining the prerequisites, the steps to be taken, over-the-phone personal assistance from the DGT, and open channels of communication that enable guidance to be provided on union registration.

Representatives of the institutions on the inter-institutional board, as well as members of the Subcommittee, intervene to ask how union registration is managed when the union members fall under heading 029 (technical and professional services). The Public Prosecutor's Office receives complaints with allegations of restrictions on rights. The DGT states that there have been several cases, and that the unions in question are registered as trade unions so that the right to freedom of association is not obstructed. Unions have been registered with a single exception, due to a resolution requiring union membership for the duration of the contract.

Moreover, the representative of the worker sector states that the State is an issue in itself, as it does provide a good example. The nature of heading 029 is different, however, as they are workers and it is the State that restricts the right.

The National Tripartite Committee on Labour Relations and Freedom of Association urges the holding of meetings to review the trade union booklet and to take into consideration any feedback from the trade union sector. It **recommends** that the National Tripartite Committee itself, at the sectoral level, appoint representatives who can maintain a dialogue with the trade unions and advise them, together with the DGT, on effective registration, through meetings in technical roundtables.

**PROGRESS:** The Government of Guatemala reports that on two occasions, in April and September 2019, it invited the worker sector to discuss the “unimpeded registration of trade union organizations in the Trade Union Register of the Ministry of Labour”. On 3 September 2019, a meeting was held with the staff of the DGT, the Minister of Labour, the Deputy Minister of Labour Administration and his advisers, as well as trade union representatives, such as Carlos Mancilla (CUSG), Julio Coj (UNSI TRAGUA), Luis López Cortez (FENASEP) and Alberto Ramírez (CGTG). They agreed, inter alia, to review the trade union booklet and to submit proposals, recommendations and observations in that regard, and to hold monthly meetings, as of 20 September 2019, to deal with specific issues and cases relating to trade union registration.

*Key indicator 9: Trends in the number of applications for registration of collective agreements on working conditions, with an indication of the industry concerned*

The Government of Guatemala, through the information provided by the Secretary-General of the Ministry of Labour and Social Welfare, Ms Mellina Salvador, reports that 12 collective agreements on working conditions have been registered in 2019.

#### **Appendix 19: Report of the Office of the Secretary-General**

The Office of the Secretary-General complies with the provisions of articles 4, 7 and 9 of Ministerial Agreement No. 221-94 and states that the in-depth analysis of the documents is conducted by the Technical Council. Most of the documents come from private companies, with a minority from public trade unions. The information gathered by the Government of Guatemala can be found in the report on Convention No. 98 on the registration of collective agreements on working conditions:

1. In 2016, 11 agreements were registered: 6 from the Government and 5 from companies (6 in public administration, 1 in agriculture, 2 in industry, 1 in the beverage industry and 1 in financial services).
2. In 2017, 17 agreements were registered: 11 from the Government and 6 from companies (9 in public administration, 1 in industry, 2 in financial services, 1 in professional services, 1 in agriculture, 1 in the beverage industry, 1 in the food industry and 1 in public health services).
3. In 2018, 14 agreements were registered: 6 from the Government and 8 from companies (5 in public administration, 1 in electricity services, 2 in agriculture, 1 in the food industry, 1 in the beverage industry, 1 in communications, 1 in the textile industry, 1 in telecommunications services and 1 in public water services).

4. In 2019 (as at 18 September), 12 collective agreements were registered: 8 from the Government and 4 from companies.

Through the National Tripartite Committee on Labour Relations and Freedom of Association, the Subcommittee on Legislation and Labour Policy has been tasked with addressing, since 7 August 2018, the importance of establishing a regulatory framework that generates legal certainty and security in collective bargaining within the public administration.

As a result, the regulations for the registration of collective agreements on working conditions in the public sector are being discussed within this Subcommittee, which has taken account of the positions of the representatives of the three sectors, who spoke about: raising the visibility of issues related to the municipalities, as well as article 2 (prerequisites for applications); article 7, the Technical Council does not issue decisions, but advises the relevant authority on its decisions; article 8, opinion on registration; additions to agreements, or addenda, are not taken into consideration, since at present these are not submitted to the Ministry; removal of article 16 in order to avoid proceeding with the proposed situation; and inclusion of a budget that does not cover negotiation, for example, due to financial incapacity. All of the above is an initial assessment, and sector-specific comments will be made in due course. The representatives have also stated that autonomous, semi-autonomous and other institutions being governed by their own laws should be carefully reviewed.

**Appendix 20: Aide-memoire of the Subcommittee on Legislation and Labour Policy of 7 August 2018**

The National Tripartite Committee on Labour Relations and Freedom of Association urges the Subcommittee on Implementation of the Road Map to hold meetings to analyse registration trends and **recommends** that, as soon as the government agreement on regulating the registration of collective agreements in the private sector has been finalized, the Government address the recommendations of the ILO's CEACR, as well as the implementation of Convention No. 98.

## Appendix II

### **Summary of the observations from the Autonomous Popular Trade Union Movement of Guatemala and the Global Unions of Guatemala**

1. In a communication received on 30 September 2019, the Autonomous Popular Trade Union Movement of Guatemala and the Global Unions of Guatemala state that, one year after the decision on GB.334/INS/9, not only does the road map remain largely unimplemented, but also the little progress seen until now has been affected and numerous anti-union actions have been carried out. The trade union federations state that, as anticipated by those who opposed the decision, the closure of the complaint process has been interpreted by the Government and other relevant actors as declining interest by the international community in the serious violations of freedom of association and collective bargaining in the country and as a form of tolerance for them.

### **Legislative reforms sought by the Governing Body**

2. The trade union federations state that in the past year no progress has been made on the legislative reforms included in the road map and that, in particular: (i) the efforts made in the framework of the National Tripartite Committee on Labour Relations and Freedom of Association (CNTRLLS), including by ILO officials, were greeted with indifference from employers and the Government; (ii) there is still therefore no acceptance of people being able to organize themselves in trade unions by sector or industry, of foreigners being entitled to freedom of association, of directly involved people being able to decide whether to take strike action and of the possibility to bargain collectively at the sectoral level; (iii) the proposed bill to enshrine the CNTRLLS in law that was submitted on a tripartite basis to the National Congress almost a year ago has still not been approved, and consequently the continuity of that institution remains subject to a decision to be taken by the new Government that will come into office in January 2020.

### **Murders of members of the trade union movement**

3. The trade union federations state that: (i) most of the 90 cases of murders of members of the trade union movement examined by the ILO remain unresolved; (ii) the instigators have not been identified in any of the cases; (iii) the Public Prosecutor's Office is continuing its practice of not prioritizing the anti-union motive in its investigations; and (iv) the only concrete procedural advances known of to date relate to the murders of David Figueroa and Tomás Ochoa; however, even in those cases the instigators have not been identified, which is why the Public Prosecutor's Office has challenged the corresponding court rulings; (v) the delegates from the Public Prosecutor's Office who appeared before the CNTRLLS on 13 August 2019 have still not provided any meaningful information on progress in the investigations relating to 20 murders highlighted by the Committee on Freedom of Association owing to the existence of possible indications of anti-union motives.

### **Protection of the members of the trade union movement**

4. The trade union federations state that: (i) a legal and institutional framework that would effectively protect workers in the event of offences being committed against them is still required; (ii) the new Minister of the Interior and his team entirely paralyzed the work that, at least formally, had begun in 2017 in respect of the commitments to provide protection for

trade union officials under threat or at risk as a result of their trade union activity; (iii) in this respect, the Office of the United Nations High Commissioner for Human Rights in Guatemala found that “[i]nstitutional changes within the Ministry of the Interior generated a growing lack of trust in the State to implement protection measures” and that, in April 2018, “the unit for analysing attacks against human rights defenders, the only inter-institutional mechanism for coordinating protection measures, ceased to function”.

### **Compliance with reinstatement orders for dismissed workers**

5. The trade union federations state that no progress has been made on this point and that still an average of half of the reinstatement rulings are not being implemented, with no initiatives having been taken in this respect. The trade union federations add that there are currently 3,054 cases of preliminary proceedings against public officials for disobeying reinstatement orders, 1,900 of which have been certified by the Public Prosecutor’s Office.

### **Registration of trade union organizations and approval of collective agreements**

6. The trade union federations highlight that, according to the Report of the Director-General submitted to the Regional Meeting in Panama, Guatemala continues to have the lowest unionization rate (1.5 per cent) among countries in Latin America. They state that, according to the figures provided by the Government itself, there was a considerable decline in the registration of new trade unions in 2018 and 2019 compared with previous years (15 trade unions registered in 2018 and 19 so far in 2019, compared with 61 registered in 2017 and 93 in 2016). They add that the 19 registrations in 2019 should be considered alongside the 59 requests made this year, given that the Ministry of Labour is maintaining the practice of demanding complex registration requirements of dubious legality. The trade union federations state that in 2018 just 14 collective agreements concerning conditions of work were approved, and only four in the first three months of 2019.

### **Awareness-raising campaign on freedom of association**

7. The trade union federations indicate that no progress has been made in the development of awareness-raising and dissemination campaigns on freedom of association.

### **Labour inspection**

8. The trade union federations state that the adoption of Decree Law No. 7-2017 on labour inspection is the only commitment in the road map that has been complied with. However, some aspects of the final version of the Law contradict Convention No. 81. Consequently, in May 2018, a tripartite proposal was submitted to amend certain provisions of the Law, which remains pending the consideration of Congress.

### **Technical assistance**

9. The trade union federations state that no progress has been made towards the adoption of the technical assistance programme requested by the Governing Body, which is of fundamental importance.

## Conclusions

10. The trade union federations state that: (i) in the year that has passed since the decision was taken to close the complaint, there has been no progress in the implementation of the road map; (ii) on the contrary, there have been setbacks in respect of the little formal progress that had been made, such as protection measures and mechanisms for the follow-up of complaints and threats against trade union officials and activists; and (iii) this deterioration mirrors the overall circumstances of the country as identified by various international bodies and illustrated by the dismantling of the International Commission against Impunity in Guatemala (CICIG).
11. The trade union federations request the Governing Body to: (i) continue and increase its follow-up to decision GB.334/INS/9 of November 2018; (ii) make a statement on the obvious non-compliance with the commitments entered into by the Government both in the framework of the road map and in relation to the Governing Body's decision; (iii) take the appropriate measures to begin as a matter of urgency the programme of technical assistance referred to in the Governing Body's decision; (iv) request the Government and the legislature to prioritize the adoption of the bill seeking to provide a legal basis for the National Tripartite Committee on Labour Relations and Freedom of Association; (v) request the Government and the legislature to adopt without delay the legislative reforms that were submitted by tripartite consensus to the National Congress within the framework of the road map.