

ILO Supervisory System

THE INTERNATIONAL
LABOUR
STANDARDS AND THE
ILO SUPERVISORY
SYSTEM
EXPLAINED

In simple and understandable terms





Foreword

Ann Vermorgen

For more than a hundred years, the International Labour Organization (ILO) has been the UN agency that pursued international social and economic justice. This makes the ILO one of the crucial bodies within the UN.

The ILO is not only a crucial body in the UN, but also a unique body... Its functioning is totally different to the other UN organisations. The ILO is based on a tripartite model: governments, employers' and workers' organisations are equally represented and are the constituents of the ILO. This unique tripartite model makes social dialogue possible. Without it, there is no equal or balanced bargaining position and therefore no sustainable solutions would ever be achieved.

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cases specific sectors or groups of workers. Over its more than 100 years of history the ILO adopted over 400 Conventions and Recommendations on all type of issues touching the world of work: from regulating freedom of association and collective bargaining to night shifts, occupational safety and health,

wages, tripartite consultations, social protection systems, elimination of violence and harassment ...

Through specific ILO Declarations governments, employers' and workers' organisations adhere to important principles and values in the world of work, for example with the ILO Declaration on Fundamental Principles and Rights at Work, the ILO constituents commit themselves to uphold basic human rights - values that are vital to our daily social and economic lives.

Adopting international instruments like Conventions and Declarations is an important step, but it cannot stop there.... Once Conventions are ratified by countries, it is also important that these Conventions are correctly implemented and monitored. For this purpose, the ILO

has established supervisory mechanisms. Workers' and/or employers' organisations can activate these mechanisms in case of violations. Hence, supervisory mechanisms have a crucial role in the general ILO system as they help improve workers' rights internationally.

Given the importance of the ILO supervisory system for the defence of workers' rights and interests, ACV-CSC invests continuously in the work of the ILO.

Founded to protect the rights of workers, the ILO must live up to this commitment. It defines and upholds a number of essential principles and rights for workers, which must also be put into practice. Its existing mechanisms must be fully developed and used for the greater good. This educational tool is

intended to explain the functioning of the ILO, in particular the use of the supervisory mechanism, and to bring it closer to trade union leaders and members and to workers. In this way, we hope that this tool will facilitate and increase a more effective use of the different complaint mechanisms of the ILO and contribute to the international fight against labour rights violations.

Given the importance of the ILO supervisory system for the defence of workers' rights and interests, ACV-CSC invests continuously in the work of the ILO. For years the ACV-CSC presidents have served as the Workers' Group spokesperson in the Committee of the Application of Standards. In this Committee governments are called to order when violating labour rights in their countries.

We would like to thank all the colleagues of ITUC Legal Department and of the ACV-CSC for developing this brochure, the Belgian development cooperation for enabling this project, and all the trade union leaders and militants that dedicate and too often risk their lives to defend labour rights. Hopefully this tool will facilitate and render the use of the supervisory mechanisms more easy, accessible and efficient for us all.

Ann Vermorgen
President ACV-CSC Belgium



What is the purpose of the brochure?

The ILO is an important organisation with many achievements in the field of labour rights. However, the ILO is also a complex organisation and not everyone is sufficiently aware of its workings, which for some workers raises the question: “What can the ILO do for me and my colleagues?”

The lack of knowledge about the ILO supervisory system creates a gap between local/national trade unions and the ILO. Often, people are not aware that the ILO can take action and put pressure on governments to improve working conditions.

The ILO's current supervisory system is too little known and difficult to reach. Moreover, it is characterised by jargon that is hard to understand, which makes it difficult for many workers with less knowledge of the ILO to work with it. As a result, there are too few violations that are reported or that lead to the start of an ILO procedure.

> For whom?

The publication is accessible to anyone who wants to learn more about the functioning of the ILO. However, for the interactive part, it mainly focusses on local trade unionists.

The goal is to explain to local trade unionists whether their complaint can be handled by the ILO and, if so, how best to approach the process. Individual workers are advised to first inform their local trade union in any case of violation.

> What are the limits of the brochure?

The publication is limited to providing information and advice; the user must take all the necessary steps himself/herself. Moreover, it does not guarantee solutions or outcomes, but only suggest the best possible strategy.

To avoid any false expectations, it is necessary to mention that not every violation can be immediately addressed by or to the ILO. When you want to raise a violation, there is no requirement to exhaust national remedies as a pre-condition. We will however encourage you, where possible, to explore national remedies as a first step. The duration of the process must also be factored in as procedures at the ILO can sometimes take several years before reaching a conclusion.





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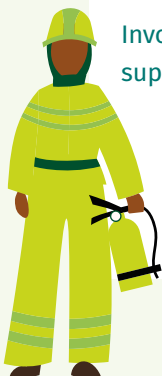
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The ILO

The International Labour Organization was founded in 1919 and became a specialized agency of the United Nations in 1946. It currently has 187 member States. The ILO is the only UN agency to have a “tripartite” structure, which brings together its constituents, that is representatives of governments, employers’ and workers’ organisations, on an equal footing to address issues related to labour and social rights and policies.

> What are the main bodies of the ILO?

The ILO’s broad policies are set by the **International Labour Conference**, which meets once a year and brings together its constituents.

The International Labour Conference brings together delegations from all ILO member States. Each delegation comprises two (2) Government delegates, one (1) Employer delegate and one (1) Worker delegate. Government, Employer and Worker delegates each have one vote in plenary.

The Conference also adopts new international labour standards and the ILO’s work plan and budget. Often called an international parliament of labour, the Conference is also a forum for discussion of key social and labour questions.

Between the sessions of the Conference, the ILO is guided by the **Governing Body**, which is composed of 28 Government members, as well as 14 Employer members and 14 Worker members. It takes decisions on ILO policy, decides the agenda of the International Labour Conference, adopts the draft Programme and Budget of the Organization for submission to the Conference, and elects the Director-General.

The Conference also adopts new international labour standards and the ILO’s work plan and budget.

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The ILO’s Secretariat, **the International Labour Office**, is headed by the Director-General and has its headquarters in Geneva, Switzerland. The Office also maintains field offices in more than 40 countries.



International labour standards

> What are International Labour Standards (ILS)?

International labour standards are legal instruments drawn up and adopted by the ILO International Labour Conference which gathers governments, employers and workers.

International labour standards set out basic principles and rights at work. Taking all together, the corpus of international labour standards constitutes an international legal framework on social standards which ensures a level playing field in the global economy towards more social justice.

International labour standards set out basic principles and rights at work.

International labour standards are either Conventions (or Protocols), which are legally binding international treaties that can be ratified by member States, or Recommendations, which serve as non-binding guidelines. In many cases, a Convention lays down the basic principles to be implemented by ratifying countries, while a related Recommendation supplements the Convention by providing more detailed guidance on how it could be applied. Recommendations can also be autonomous, i.e. not linked to a Convention (e.g. Recommendation No. 204).

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CONVENTIONS ARE COMMONLY DIVIDED INTO THREE CATEGORIES:

1 / Ten (10) fundamental (or core) Conventions

The ILO Governing Body has identified ten “fundamental” Conventions, covering fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; the elimination of discrimination in respect of employment and occupation; and a safe and healthy working environment. These principles are also covered by the ILO Declaration on Fundamental Principles and Rights at Work (1998) as revised in 2022.

The ten fundamental Conventions are:

1. the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
2. the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
3. the Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol)
4. the Abolition of Forced Labour Convention, 1957 (No. 105)
5. the Minimum Age Convention, 1973 (No. 138)
6. the Worst Forms of Child Labour Convention, 1999 (No. 182)
7. the Equal Remuneration Convention, 1951 (No. 100)
8. the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
9. the Occupational Safety and Health Convention, 1981 (No. 155)
10. the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

2 / Four (4) governance (or priority) Conventions

The ILO Governing Body has also designated another four Conventions as governance (or priority) instruments, thereby encouraging member States to ratify them because of their importance for the functioning of the international labour standards system. The ILO Declaration on Social Justice for a Fair Globalization (2008), in its Follow-up, emphasizes the significance of these Conventions from the viewpoint of governance.

The four governance Conventions are:

1. the Labour Inspection Convention, 1947 (No. 81) (and its Protocol of 1995)
2. the Labour Inspection (Agriculture) Convention, 1969 (No. 129)
3. the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
4. the Employment Policy Convention, 1964 (No. 122)

3 / Technical Conventions:

All other Conventions (currently 177 Conventions) *Normlex*

> How are Conventions, Recommendations and Protocols adopted?

International labour standards are elaborated in a unique legislative process involving representatives of governments, workers and employers from around the world.

THE ELABORATION AND ADOPTION OF INTERNATIONAL LABOUR STANDARDS FOLLOW A “DOUBLE DISCUSSION” PROCEDURE:

- the Governing Body agrees to put an issue on the agenda of a future International Labour Conference.
- the Office prepares a report that analyses the law and practice of member States regarding the issue at stake. The report is communicated to member States and to workers' and employers' organizations for comments.
- the report is then submitted to the International Labour Conference for a first discussion (year 1).
- following this first discussion, a second report is then prepared by the Office with a draft instrument, which is also sent for comments and submitted for discussion at the following session of the Conference (year 2), where the draft instrument is discussed, amended as necessary and proposed for adoption. A two-thirds majority of votes is required for a standard to be adopted.

> Subjects covered by international labour standards

International labour standards respond to the ever-increasing needs and challenges faced by workers and employers in the global economy. They set minimum standards for all countries on a wide range of subjects, including working time and remuneration, social protection, gender equality or employment policy. International labour standards take into account the countries' diverse cultural and historical backgrounds, legal systems and levels of economic development. The complete list of ILO standards by subject and status may be consulted here [“List of instruments by subject and status”](#).

> Obligation of governments to submit ILO Conventions and Protocols to the competent authority for possible ratification

Ratification is a formal procedure whereby a State accepts the Convention or Protocol as a legally binding instrument and commits itself to implement the Convention or Protocol in the national legislation.

Please note that Recommendations must also be submitted to the national authority for the enactment of relevant legislation or other action.

Under article 19 of the ILO Constitution, ILO member States must submit any Convention or Protocol adopted by the International Labour Conference to their competent national authority (usually parliaments) for the enactment of relevant legislation or other action, including ratification. Please note that Recommendations must also be submitted to the national authority for the enactment of relevant legislation or other action. However, Recommendations are non-binding legal instruments and therefore not open to ratification.

[Constitution](#) (see also the [Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities](#))

An adopted Convention or Protocol normally comes into force 12 months after being ratified by two member States. Once it has ratified a Convention or Protocol, a country is subject to the ILO regular supervisory system, which is responsible for ensuring that the instrument is applied [regular supervisory mechanism](#).

[List of ratifications of ILO Conventions by country.](#)



The ILO supervisory system



> The regular supervisory system

The International Labour Organization (ILO) has established and developed a unique supervisory system advancing the effective implementation of ILS at the national level.

THE REGULAR SYSTEM OF SUPERVISION IS BASED ON TWO ILO BODIES :

1. The Committee of Experts on the Application of Conventions and Recommendations ([CEACR or Committee of Experts](#))
2. The International Labour Conference Committee on Application of Standards ([CAS](#))

The ILO regular supervisory bodies and their role

THE COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS (CEACR)

Composition

The Committee of Experts on the Application of Conventions and Recommendations (“CEACR” or “Committee of Experts”) is an independent body, established by the International Labour Conference in 1926, whose members are appointed by the Governing Body. Since 1979, it is composed of 20 members from different geographic regions, legal systems and cultures. As a general rule, the experts tend to be selected among senior judges and academics. Over the years, the CEACR has moved towards gender parity. [The full list of CEACR members.](#)

Mandate

The role of the Committee of Experts is to provide an impartial and technical evaluation of the application in law and in practice of international labour standards by ILO member States.

The Committee of Experts meets every year in November-December to proceed to the examination of governments’ reports and of observations sent by workers’ and employers’ organisations. The Committee of Experts then issues comments to the governments in the form of observations and direct requests. Observations are published in the annual report of the Committee of Experts ([list of all annual reports](#))



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THE CONFERENCE COMMITTEE ON THE APPLICATION OF STANDARDS (CAS)

Composition

The Conference Committee on the Application of Standards (CAS) is a tripartite standing committee of the International Labour Conference (ILC) which meets every year in June. It is composed of hundreds of members from the Governments', Employers' and Workers' groups.

The Conference Committee on the Application of Standards (CAS) is a tripartite standing committee of the International Labour Conference (ILC) which meets every year in June.

Each year, the CAS elects its Officers: a government Chairperson, two Vice-Chairpersons – one from the Workers' group and one from the Employers' group – and a government Reporter. Therefore, Workers are fully represented on an equal standing with employers and governments.

Mandate

The CAS examines the annual report of the Committee of Experts in a tripartite setting and selects from it a number of observations for discussion.

Following the technical and independent scrutiny carried out by the Committee of Experts, the CAS provides the opportunity for the representatives of governments, employers and workers to examine jointly the manner in which member States fulfil their obligations deriving from international labour standards.

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THE CAS HAS TO CONSIDER:

- compliance by member States with their obligations to communicate information and reports under articles 19, 22, 23 and 35 of the ILO Constitution;
- 25 individual cases relating to the measures (or absence thereof) taken by member States to give effect to the Conventions to which they are parties;
- the law and practice of member States with regard to selected Conventions and Recommendations, as chosen by the Governing Body [General Surveys](#).

How does the ilo regular supervisory cycle work?

Once a country has ratified an ILO Convention, it is required to report regularly on the measures it takes for its implementation. This obligation derives from Article 22 of the ILO Constitution. [Relevant constitutional obligations](#).

The application of ratified Conventions is subject to regular monitoring by two ILO supervisory bodies: the Committee of Experts (CEACR) and the Committee on the Application of Standards (CAS).

GOVERNMENTS' OBLIGATION TO REPORT ON THE IMPLEMENTATION OF RATIFIED ILO CONVENTIONS (ARTICLE 22 OF THE ILO CONSTITUTION)

Under [article 22 of the ILO Constitution](#) member States have the obligation to report regularly on measures they have taken to give effect to the Conventions they have ratified.

Reports on ratified Conventions are due every three or six years depending on the type of Convention. Reports are requested every three years for fundamental and governance Conventions. Reports are requested every six years for all other Conventions (called “technical Conventions”).

However, if the CEACR deems it necessary, reports on the application of ratified Conventions may be requested from the government at shorter intervals, i.e. outside the regular reporting cycle.

Reports on ratified Conventions must be prepared by governments and sent to reach the ILO Office between 1 June and 1 September at the latest. A copy of the reports must also be sent to workers' (and employers') representative organisations so that they can provide their own comments ([article 23 of the ILO Constitution](#)).

All reports are examined by the CEACR during its session held in November-December each year.

The NORMLEX database lays out the regular reporting schedule for each member State over a period of six years. The list of reports due by country and by Convention is available [here](#) and [here](#).

In case of failure to report, the Committee of Experts issues an “urgent appeal” to the government using the following criteria:

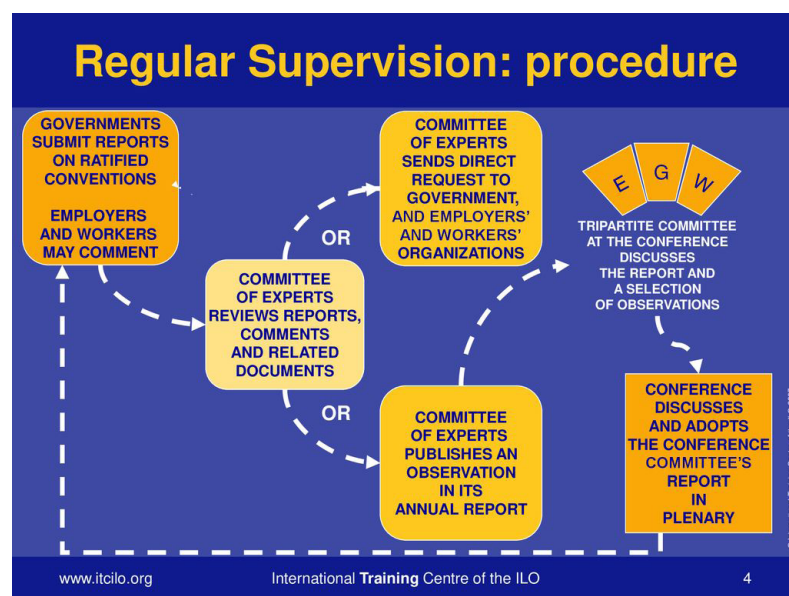
- failure to send reports for the third consecutive year; observations from employers' and workers'
- failure to reply to serious and urgent organizations for more than two years; and
- failure to reply to repetitions relating to draft legislation when developments have intervened.

As a result, repetitions of previous comments will be limited to a maximum of three years, following which the Convention's application will be examined in substance by the Committee of Experts on the basis of publicly available information, even if government has not sent a report, thus ensuring a review of the application of ratified Conventions at least once within the regular reporting cycle.

However, if the CEACR deems it necessary, reports on the application of ratified Conventions may be requested from the government at shorter intervals, i.e. outside the regular reporting cycle.



THE REGULAR SUPERVISION PROCESS



The Committee of Experts

In November-December each year, the Committee of Experts proceeds to the examination of governments' reports due that year and of observations sent by workers' and employers' organisations. The comments of the CEACR on the fulfilment by member States of their standards-related obligations take the form of either observations or direct requests:

- **Direct requests** relate to more technical questions or requests for clarification of certain points when the information available does not enable a full appreciation of the extent to which the obligations are fulfilled. They are also used to provide comments on the first reports supplied by governments on the application of Conventions. Direct requests are not published in the annual report, but are communicated directly to the government concerned and are available online in the [NORMLEX database](#).
- **Observations** are generally used in more serious or long-standing cases of failure to fulfil obligations. They point to important discrepancies between the obligations under a Convention and the related law/and or practice of a member State. They may address the absence of measures to give effect to a Convention or to take appropriate action following the requests of the Committee of Experts. They may also highlight progress, as appropriate. Observations are published in the annual report of the Committee of Experts, which comes out in February each year, and are available online in the NORMLEX database. [CEACR reports](#) & Normlex

• Single footnotes and double footnotes:

The Committee of Experts may highlight, by means of footnotes, cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has deemed appropriate to ask the government to supply a report earlier than would otherwise have been the case ("single footnote") and, in some instances, to supply full particulars to the International Labour Conference at its next session ("double footnote"). The latter cases are included in the final list of 25 individual cases discussed by the CAS.

The Committee on the Application of Standards (CAS)

Following the technical and independent examination by the Committee of Experts, the CAS provides the opportunity for a tripartite examination of the manner in which member States fulfil their obligations deriving from international labour standards.

The CAS is a standing committee of the International Labour Conference which is organised each year in June. The members of the CAS elects their Officers: a government Chairperson, two Vice-Chairpersons – one from the Workers' group and one from the Employers' group – and a government Reporter.

THE CAS MANDATE IS TO EXAMINE THE ANNUAL REPORT OF THE COMMITTEE OF EXPERTS AND TO :

- discuss the General Survey prepared by the Committee of Experts;
- examine cases of serious failure to report; and
- examine 25 individual cases relating to the application of ratified Conventions.

During its session, the most important task of the Committee of the Application of Standards is the examination of the 25 individual cases relating to the application of ratified Conventions and the adoption of conclusions on each case.

The individual cases are selected on the basis of the observations published in the [annual report of the Committee of Experts](#). A preliminary list of around 40 individual cases for possible discussion (also known as “long list”) is made

available 30 days before the opening of the International Labour Conference, so that governments may better prepare themselves for a possible intervention before the CAS. The final list of individual cases is submitted to the CAS, after the Vice-Chairpersons (Workers and Employers) have met to discuss and finalize it.

The list of 25 cases is adopted at the opening of the CAS, ideally no later than its second sitting. Cases included in the final list are automatically registered and scheduled by the Office. At the appointed time, the government representative takes the floor in the CAS, provides information orally or refers to written information provided, and makes him or herself available to respond to statements from other governments, and from workers' and employers' members of the CAS.

The list of 25 cases is adopted at the opening of the CAS, ideally no later than its second sitting.

The Workers and Employers Vice-Chairpersons voice the concerns of their respective groups regarding the case. Workers and Employers members can also make statements on the case.

On each individual case, the CAS adopts conclusions. These reflect recommendations negotiated between the Workers and Employers Vice-Chairpersons which are then submitted by the Chairperson to the CAS for adoption. The conclusions specify the action expected from the government. They may include an invitation to the government to accept a mission organized by the ILO to the country to better assess the situation and to promote the adoption of measures based on tripartite social dialogue, as well as technical assistance to be provided by the Office. The CAS may also request the government to submit additional information or address specific concerns in their next reports to the Committee of Experts.



Following the adoption of the conclusions by the CAS, the International Labour Conference discusses the CAS report in plenary session, highlighting the most important developments, and adopts it. The CAS report and a record of the discussion in plenary is published in the Record of proceedings of the International Labour Conference.

At its following session, the Committee of Experts examines the follow-up given by the government concerned to the conclusions of the CAS on the individual case.

WHAT RESULTS CAN BE ACHIEVED THROUGH THE REGULAR SUPERVISION MECHANISMS?

Publicity

The Committee on the Application of Standards holds its sessions in public during the International Labour Conference. For such discussions, the government concerned is asked to publicly explain what the situation is with respect to application of the Convention. All members of the Committee, including workers' and employers' delegates, have the opportunity to publicly comment on the case, raise questions and suggest solutions.

All members of the Committee, including workers' and employers' delegates, have the opportunity to publicly comment on the case, raise questions and suggest solutions.

In practice, airing allegations in the CAS can have an important impact. Often discussion of the individual case heightens public awareness of the situation and brings pressure on the government concerned.

The discussions and conclusions on the individual cases examined by the CAS are published in its report. Situations of special concern are highlighted in special paragraphs of its General Report.

As the reports of both the Committee of Experts and the Committee on the Application of Standards are available on the Internet to millions of users, governments and social partners thus have a greater incentive to solve problems in the application of standards in order to avoid critical comments by these bodies.

ILO missions and Office technical assistance

At the end of the public review, the Committee on the Application of Standards draws up conclusions recommending that the government concerned take specific steps to remedy a problem. These steps can often include an invitation to the government to avail itself of the technical assistance of the Office or to accept an ILO mission in the country.

Where the conclusions of the Committee recommend it, the International Labour Office provides technical assistance to the government concerned to resolve the issues highlighted by the Committee, e.g. drafting and revising national legislation to ensure that it is in conformity with international labour standards, or facilitating tripartite social dialogue.

Through continuous dialogue with the governments and with the active participation of the social partners, the ILO regular supervisory bodies play an important role in preventing and resolving problems in the application of standards.

Between 1964 and 2019, over 3,000 cases of progress have been noted by the Committee of Experts, that is cases where governments have made changes in law and practice which have improved the application of a ratified Convention.



Involvement of workers' organizations in the regular supervisory system



The participation of employers' and workers' organizations in the supervisory mechanisms is recognized in [article 23, paragraph 2, of the ILO Constitution](#), which provides that reports and information submitted by governments in accordance with articles 19 and 22 must be communicated to the representative organizations.

WORKERS' REPRESENTATIVE ORGANIZATIONS RECEIVE THE GOVERNMENT'S REPORTS

Under [article 23, paragraph 2, of the ILO Constitution](#) member States have the obligation to communicate to the representative organizations of employers and workers copies of the reports supplied to the Office. This obligation is intended to enable employers' and workers' organizations to participate fully in the supervision of the application of international labour standards.

When it receives governments' reports, the ILO Office verifies that they are accompanied by the list of workers' organisations to which copies of the report have been sent. If not, the Office will ask the government to provide this information.

WORKERS' REPRESENTATIVE ORGANIZATIONS SEND OBSERVATIONS TO THE COMMITTEE OF EXPERTS

Workers' organizations can make observations on the way ratified Conventions are being applied.

Governments transmit the observations made by employers' and workers' organizations with their reports, sometimes adding their own comments. However, in the majority of cases, observations from workers' (and employers') organizations are sent directly to the ILO Office which transmits them to the governments concerned for comments, so as to ensure respect for due process.

How to send observations to the Committee of Experts?

Observations should be sent to the ILO Office, preferably by email to ORGS-CEACR@ilo.org. They should clearly indicate the intention to submit observations to the Committee of Experts and should be signed. They should reach the ILO Office no later than 1 September each year to allow governments to have a reasonable time to respond.



How are observations sent by workers' organizations processed?

Where the Committee of Experts finds that the observations are not within the scope of the Convention or do not contain information that would add value to its examination of the application of the Convention, it will not refer to them in its comments. Otherwise, the observations received from these organizations may be considered in a comment.

• In a reporting year

Observations from workers' organizations should be received by the CEACR by 1st September. When observations are received after this date, they will not be examined in substance in the absence of a reply from the government, except in exceptional cases, which are cases where the allegations are sufficiently substantiated and there is an urgent need to address the situation, whether because they refer to matters of life and death or to fundamental human rights or because any delay may cause irreparable harm. In addition, observations referring to legislative proposals or draft laws may also be examined by the Committee of Experts in the absence of a reply from the government, where this may be of assistance for the country at the drafting stage.

• Outside of a reporting year

When observations simply repeat those made in previous years, or refer to matters already raised by the Committee of Experts, they will be examined in the year when the government's report is due, in accordance with the regular reporting cycle. In this case, a report will not be requested from the government outside of that cycle.

Where the observations meet the criteria of exceptional cases – that is that allegations are sufficiently substantiated and there is an urgent need to address the situation...

Where the observations meet the criteria of exceptional cases – that is that allegations are sufficiently substantiated and there is an urgent need to address the situation, whether because they refer to matters of life and death or to fundamental human rights or because any delay may cause irreparable harm – the Committee of Experts will examine them in the year in which they are received, even in the absence of a reply from the government concerned.

Furthermore, where the observations on a technical Convention meet the criteria set out below, the Committee of Experts will review the application outside of a reporting year.

THE CRITERIA ARE:

- the seriousness of the problem and its adverse impact on the application of the Convention;
- the persistence of the problem; and
- the relevance and scope of the government's response in its reports or the absence of response to the issues raised by the CEACR, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

The Committee of Experts will therefore request the Office to issue a notification to the government that the observations received on a technical Convention will be examined at its subsequent session with or without a response from the government. This would ensure that the government has sufficient notice while ensuring that the examination of matters of importance are not further delayed.



WORKERS' REPRESENTATIVE ORGANIZATIONS EXAMINE THE CEACR ANNUAL REPORT

In March each year, representative organizations of workers (and employers) receive comments addressed to their governments and to which governments will need to reply with reports on the application of ratified Conventions in the current year.

Workers' organizations examine the [CEACR annual report](#) and consider measures they can take to promote the fulfilment of standards-related obligations by governments. These are obligations related to the application of ratified Conventions, the implementation of conclusions and recommendations made by other supervisory bodies, reporting and the submission of ILS to the competent authorities.

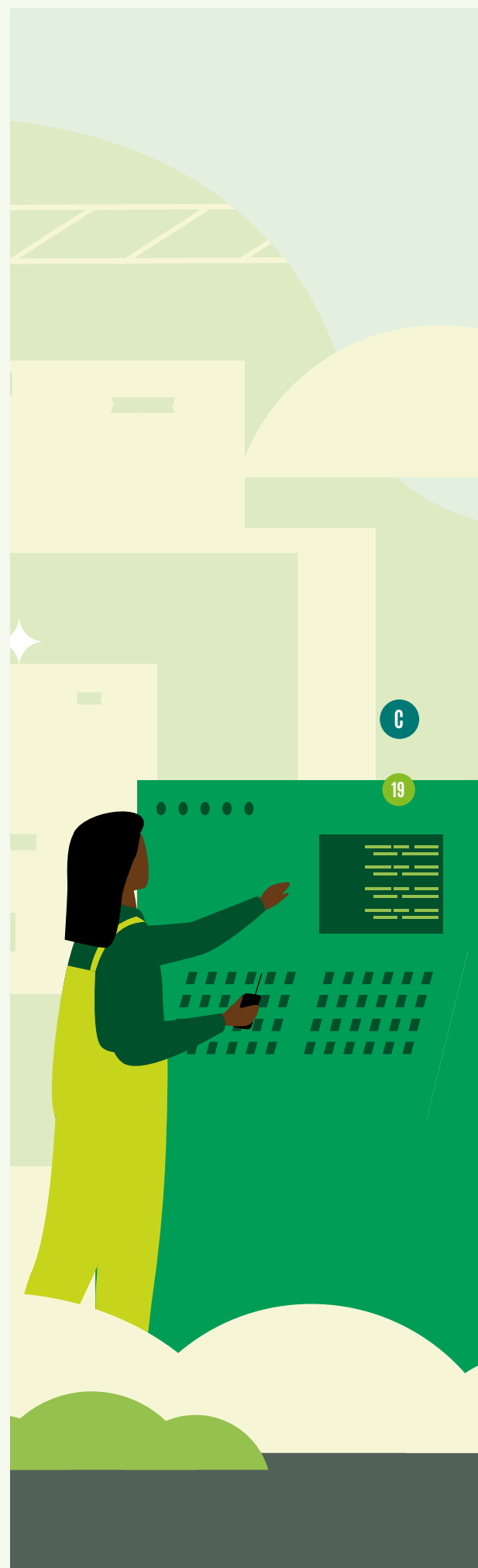
These organizations can prepare for the tripartite consultations on questions arising out of reports on ratified Conventions required under the [Tripartite Consultation \(International Labour Standards\) Convention, 1976 \(No. 144\)](#), where the Convention has been ratified.

What must the government do?

Contact may be taken within governmental departments and with the social partners to consider actions to substantively respond to CEACR comments.

Substantive response implies action to change laws, policies or practices to better meet obligations and/or study of the matter at hand to better engage in dialogue with the CEACR concerning the law and practice and their conformity with obligations.

Workers' organizations examine the CEACR annual report and consider measures they can take to promote the fulfilment of standards-related obligations by governments.



> The ILO special procedures

Representations under article 24 of the ILO constitution

Workers' organisations can bring complaints against an ILO member State for inadequate observance of Conventions that they have ratified.

COMPLAINANT ORGANISATION

THE RIGHT TO MAKE A REPRESENTATION IS GRANTED WITHOUT RESTRICTION TO "ANY INDUSTRIAL ASSOCIATION OF EMPLOYERS OR WORKERS".

- No conditions are laid down as regards the size or nationality of that organization. It may be an entirely local organization or a national or international organization.
- Organizations can make allegations against a State other than the one in which they are established, operate or have membership.
- Organizations do not need to demonstrate a connection to and harm from the ineffective observance alleged in the representation.
- However, individuals or groups are not allowed to submit representations directly.

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ALLEGATIONS

Several ratified Conventions may be cited in one representation, provided the allegation of ineffective observance is substantiated.

The ILO provides an [electronic form](#) for the submission of a representation.





RECEIVABILITY OF THE REPRESENTATION AND REFERRAL TO A COMMITTEE



The ILO **Director-General** acknowledges receipt of the representation to the organisation which made it and informs the government against which the representation is made.

The **Governing Body** examines the receivability of the representation at its next session, provided there are at least 45 days before the next session of the Governing Body.

The Office prepares the necessary documents to put the representation to the Governing Body for a decision concerning receivability. The Governing Body does not enter into a discussion on the substance of the representation.

There are two conditions for a representation to be deemed receivable:

- The representation must emanate from an industrial association of employers or workers (see above)
- The representation must indicate in what respect it is alleged that the member State against which it is made has failed to secure the effective observance within its jurisdiction of the said Convention

• *Standing Orders concerning the procedure for the examination of representations*

1. IF A REPRESENTATION IS FOUND TO BE RECEIVABLE,

the Governing Body will decide how the substance of the representation will be examined.

It has several options:

- An ad hoc tripartite committee is established to examine its substance. The tripartite committee is normally established, to the extent possible, at the session of the Governing Body at which the representation is deemed receivable, or in the months before the next session of the Governing Body;
- If the representation relates to a Convention dealing with freedom of association and collective bargaining the Governing Body usually refers it to the Committee of Freedom of Association (CFA).

Representations covering more than one instrument, including Conventions dealing with freedom of association and collective bargaining, are usually examined separately, with one component examined by an ad hoc committee and another referred to the CFA.

- If the representation relates to matters and allegations similar to those which have been the subject of a previous representation, the Governing Body may decide to postpone the appointment of the committee to examine the new representation until the CEACR has been able to examine the follow-up to the recommendations that were adopted by the Governing Body in relation to the previous representation.

The decision of the Governing Body is communicated to the complainant organisation.

2. IF THE GOVERNING BODY DECIDES THAT THE REPRESENTATION IS NOT RECEIVABLE,

a letter informing the complainant organisation of the decision will be sent by the Office.

The meetings of the Governing Body at which questions relating to a representation are considered are held in private.

EXAMINATION OF THE REPRESENTATION BY AN AD HOC COMMITTEE

Composition of the ad hoc committee

The ad hoc committee consists of three members chosen in equal numbers from the Government, Employers' and Workers' groups.

No representative or national of the State against which the representation has been made and no person occupying an official position in the association of employers or workers which has made the representation may be a member of the committee.

Ratification of the Convention concerned is a condition for membership of governments in these committees, unless no government titular or deputy member of the Governing Body represents a country which has ratified the Convention concerned.

The complainant organisation is informed of the composition of the ad hoc committee.

Proceedings in the ad hoc committee

IMPORTANT NOTE

During the examination of a representation, **the CEACR suspends its examination of the issues covered by the representation until the Governing Body has taken a decision.**

Therefore, until the procedure comes to an end, this may preclude examination of the matter by the CAS. This should be taken into account in the decision to have recourse to a representation under article 24 of the ILO Constitution, or to make an observation to the CEACR under article 23 of the ILO Constitution.

• Confidentiality

The meetings of the committee are held in private and all the steps of the procedure are confidential.

• Optional voluntary conciliation

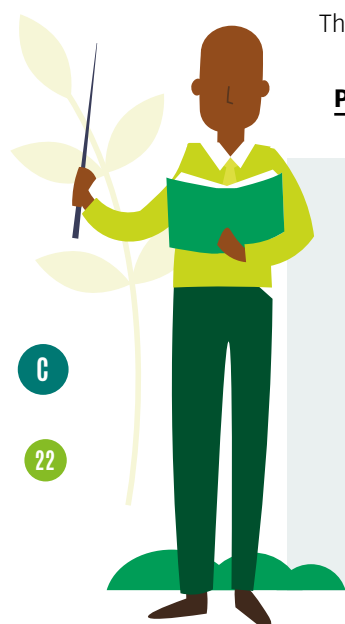
The examination of the merits of the representation may be temporarily suspended, for a maximum period of six months, so as to allow for optional voluntary conciliation or other measures at the national level. The suspension is subject to the agreement of the complainant organisation, as expressed in the electronic form for the submission of a representation, and of the government.

• Information provided by the complainant organisation

The complainant organisation that has made the representation provides further information to the ad hoc tripartite committee if it is asked to do so, within the time fixed by the committee. The complainant organisation can also do so on its own initiative but this may have an impact on the deadlines within which the representation will be examined.

All proceedings are in writing. A representative of the complainant organisation may on very rare occasions be invited by the ad hoc committee to furnish information orally.

The examination of the merits of the representation may be temporarily suspended, for a maximum period of six months, so as to allow for optional voluntary conciliation or other measures at the national level.



REPORT OF THE AD HOC COMMITTEE TO THE GOVERNING BODY

A report on the examination of the representation by the ad hoc committee is prepared for the Governing Body.

It contains information on the steps taken in examining the representation, its conclusions concerning the issues raised in the representation, and its recommendations as to the decision to be taken by the Governing Body.

Once the report of the ad hoc tripartite committee has been adopted by the Governing Body, it is notified to the government concerned and the complainant organisation, and the procedure is closed.

The measures taken by governments pursuant to the recommendations of the ad hoc tripartite committee are examined through regular supervision of the CEACR.

The report is published on the ILO website, in the pages concerning the relevant session of the Governing Body.

FOLLOW-UP TO THE RECOMMENDATIONS OF THE AD HOC COMMITTEE

The measures taken by governments pursuant to the recommendations of the ad hoc tripartite committee are examined through regular supervision of the CEACR. This provides the opportunity for the government to submit information on developments through reporting on the relevant ratified Conventions, the CEACR to monitor developments in light of recommendations, and the CAS to take the matter up as an individual case during a future session of the International Labour Conference.

Further assistance can be obtained via the Bureau for Workers' Activities (ACTRAV).

Complaints to the committee on freedom of association

A complaint regarding violations of freedom of association and collective bargaining can be lodged by employers' or workers' organisations against a government, whether or not the country concerned has ratified the relevant Conventions.

THE COMMITTEE ON FREEDOM OF ASSOCIATION (CFA)

Composition of the CFA

The Committee on Freedom of Association (CFA) is a standing committee of the Governing Body. It has an independent chairperson and is composed of nine titular members and nine deputy members from the Government, Employers' and Workers' groups of the Governing Body, all appointed in their personal capacity.

The CFA is tasked with examining alleged infringements of the principles of freedom of association and the effective recognition of the right to collective bargaining.

Mandate of the CFA

The CFA is tasked with examining alleged infringements of the principles of freedom of association and the effective recognition of the right to collective bargaining. The mandate of the CFA consists in determining whether any given legislation or practice complies with the principles of freedom of association and the effective recognition of the right to collective bargaining. These principles concern fundamental rights which are the subject of international labour Conventions on freedom of association and collective bargaining, as enshrined in the ILO Constitution.

The CFA meets three times a year, in the weeks before the Governing Body meetings in March, June and November.

RECEIVABILITY OF THE COMPLAINT

There are a number of criteria to fulfil for the complaint to be deemed receivable:

Complainant organisation

COMPLAINTS TO THE CFA MUST:

- emanate from a workers' (or employers') organisation;
- be sent in writing and signed by an entitled representative (that is an officer of the organisation or a person authorized to take such action under the statutes of the organization or by a person holding power of attorney to act on behalf of the organization);
- be dated and include the permanent address of the complainant organisation;
- be addressed to the ILO Director-General;
- be lodged against a government.



FORMALITIES TO FOLLOW

The CFA examines complaints whether or not the country concerned has ratified the relevant Conventions.

Freedom of association and the right to collective bargaining are fundamental principles and rights at work. By their membership to the ILO, all member States undertake to respect and promote these principles, whether or not they have ratified the relevant Conventions (e.g. Conventions Nos. 87 and 98).

The mandate of the CFA consists in determining whether any given legislation or practice complies with the principles of freedom of association and the effective recognition of the right to collective bargaining. The object of the procedure is not to blame or punish anyone, but rather to engage in a constructive tripartite dialogue to promote respect for these principles.

National remedies do not have to be exhausted

The CFA determines in each case individually the importance of this general principle.

The existence of a national appeal procedure nevertheless constitutes a factor that should be taken into account. If an administrative or judicial appeal concerning the issues raised in the complaint has been filed, it is important to indicate the outcome of the appeal proceedings and provide a copy of the decision. If there has not been a decision yet, it is suggested to send the decision as soon as it is issued.



If an administrative or judicial appeal concerning the issues raised in the complaint has not been filed, it is important to explain why in the complaint.

If a complaint meets the basic admissibility requirements, the Office assigns the complaint a case number and informs the government concerned of the complaint.

CONTENT OF THE COMPLAINT

The complaint should not be purely political in character (that is that the complaint must contain concrete and specific allegations of infringements of freedom of association or the right to collective bargaining, or of human rights violations relating to the exercise of trade union rights).

IN ADDITION, THE COMPLAINT TO THE CFA MUST:

- describe the facts in detail;
- be fully supported by evidence;
- list the relevant provisions of national legislation that would infringe the principles of freedom of association and the effective recognition of the right to collective bargaining, wherever possible; and
- include information on national tripartite mechanisms established in the framework of the technical assistance provided by the Office, where applicable.

EXAMINATION OF THE COMPLAINT

Confidentiality of the proceedings

The CFA deliberates in private sessions, its working documents are confidential and, in practice, decisions are taken by consensus.

Written proceedings

When informing the government of the complaint, the Office also asks for its observations on the allegations.

The complainant organisation may amplify allegations and submit further information or it may be requested to do so by the CFA in the light of the observations from the government, once received.

The procedure is in writing. The CFA may hear the parties, or one of them, where it deems it necessary but in practice, face-to-face hearings occur very exceptionally.

Optional voluntary conciliation

If agreed to by both parties, the optional voluntary conciliation leads to a temporary suspension of the examination of the complaint for a period of six months.

The procedure is in writing. The CFA may hear the parties, or one of them, where it deems it necessary but in practice, face-to-face hearings occur very exceptionally.



Allegations regarding matters which occurred a long time ago

There are no formal rules fixing any particular period of prescription in the procedure for examining complaints. However, where the allegations regard matters which occurred a long time ago, the CFA has discretion to decide whether to examine the complaint. This is to take into account the fact that it may be difficult for a government – if not impossible – to reply in detail to allegations regarding dated matters.

Inactive cases

Inactive cases are cases that have not received information from the parties for 18 months (or 18 months from the last examination of the case). These cases are considered closed, except for serious and urgent cases.

The closure of inactive cases concerning countries that have not ratified the Conventions on freedom of association and collective bargaining will be decided on a case-by-case basis depending upon the nature of the case.

Inactive cases are cases that have not received information from the parties for 18 months. These cases are considered closed, except for serious and urgent cases.

Withdrawal of complaints

Any request for withdrawal of a complaint must come from the complainant organisation concerned. Where a request is made, the CFA evaluates the reasons given to explain the withdrawal. This is done with a view to establishing whether the request has been made in full independence.

Where a request is made for the postponement of examination of a case, either by a complainant or the government, the CFA decides the question in full freedom based on the reasons given for the request and the circumstances of the case.

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INTERIM MEASURES RECOMMENDED BY THE CFA DURING THE EXAMINATION OF THE COMPLAINT

In reviewing the complaint, the CFA may request the Office to conduct missions whereby a person entrusted by the Director-General – either an independent person or an ILO official – is sent to the country concerned in order to collect information on the facts relating to a case and/or to seek solutions to the difficulties encountered.

THESE MISSIONS CAN BE OF THREE TYPES:

1. preliminary contacts missions may occur early on in the process and are used for complaints of a particularly serious nature. They require the prior approval of the Chair of the CFA.

Its possible purposes are:

- to transmit to the competent authorities in the country the concern to which the events described in the complaint have given rise;
- to explain to those authorities the principles of freedom of association and the effective recognition of the right to collective bargaining involved;
- to obtain from the authorities their initial reaction, as well as any comments and information with regard to the matters raised in the complaint;
- to explain to the authorities the special procedure in cases of alleged infringements of workers' (or employers') organisation rights, and in particular the direct contacts method which may subsequently be requested by the government in order to facilitate a full appraisal of the situation by the CFA and the Governing Body;
- to request and encourage the authorities to communicate as soon as possible a detailed reply containing the observations of the government on the complaint.

2. direct contact missions may occur either during the examination of the case or at the stage of the action to be taken on the recommendations of the Governing Body. They can only be established at the invitation of the government concerned, or at least with its consent.

3. tripartite missions may be proposed to the government by the CFA on certain occasions, and normally after in-depth examination of the case, the CFA, with the purpose to assist in the resolution of the outstanding issues.



REPORT OF THE CFA

Decisions in the CFA are taken by consensus. Once the CFA has examined the case, it makes its recommendations to the full Governing Body for approval. CFA reports on each case have the following structure: allegations made, government's reply, conclusions and recommendations of the CFA.

The CFA reports are published on the [ILO website](#) and in the [ILO Official Bulletin](#).

Nature of CFA reports

THE CFA MAY ADOPT THREE TYPES OF REPORT:

- 1. Definitive report for closed cases:** the CFA determines that the case calls for no further examination, where no violation of freedom of association is found or where the issues have been resolved or the CFA states a principle or provides guidelines to be followed without requesting the government to keep it informed. The case will then be closed.
- 2. Interim report for active cases:** The government is asked to take specific action or to provide additional information to assist the CFA in examining the case further. The government may also be asked to remedy aspects of the case and report back to the CFA on the measures which have been taken. The CFA normally re-examines the case when it receives the government and/or complainant's additional information and will issue an "urgent appeal" if it has not received the information requested from the government after two postponements. After the re-examination, the CFA may make new interim conclusions and recommendations in light of any new information provided and continue to keep the case under full examination.
- 3. Report in which the Committee requests to be kept informed of developments for follow-up cases:** the CFA asks to be kept informed of developments, where it wants to follow the action taken by the government to implement its recommendations until all outstanding issues have been resolved.

Adoption of the CFA report by the Governing Body

At each of its sessions, the Governing Body receives the CFA report for approval. The report contains findings and conclusions for several cases before the CFA, reflecting each case's stage of handling – e.g. whether a complaint has just been received, a government's observations has been requested or received, the matter treated substantively, etc.

Where the relevant Conventions have not been ratified, the CFA will follow up on its recommendations.

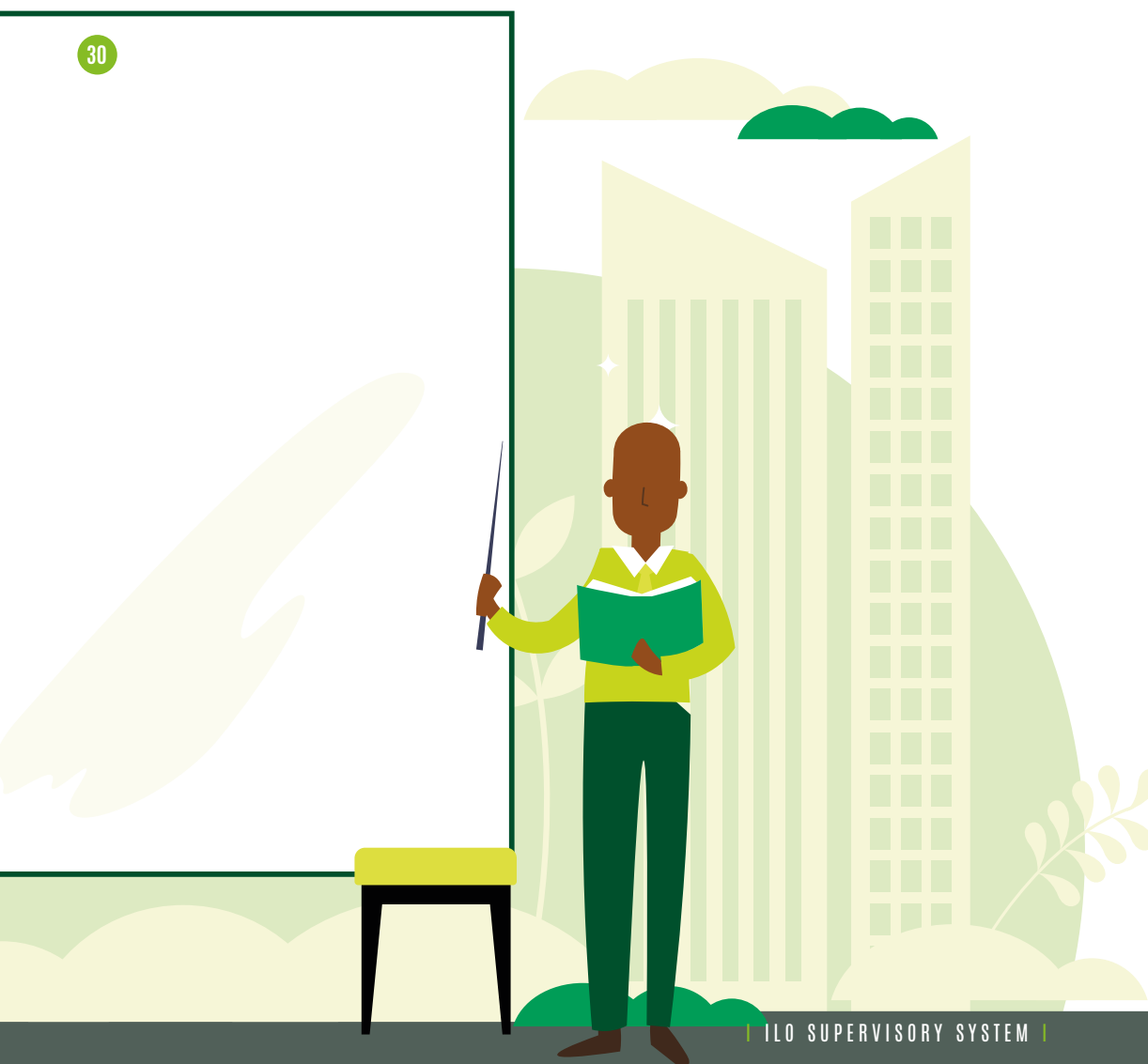
The Governing Body approves the CFA report with conclusions and recommendations, sending the matter on for follow-up as appropriate.

FOLLOW-UP TO THE RECOMMENDATIONS OF THE CFA

Where the relevant Conventions have been ratified, the CFA may decide to bring the relevant legislative aspects of a case to the attention of the CEACR which follows up on the outstanding legislative aspects related to the Convention until the requested action has been taken and the issue of compliance has been resolved.

Where the relevant Conventions have not been ratified, the CFA will follow up on its recommendations.

The complainant workers' organisation can follow up directly on the measures taken to implement the recommendations of the CFA and inform about compliance or non-compliance with them.



> Further reading

- **Rules of the Game: An introduction to the standards-related work of the International Labour Organization (Centenary edition 2019)**
<https://www.ilo.org/publications/rules-game-introduction-standards-related-work-international-labour>
- **Conventions, Protocols and Recommendations**
<https://www.ilo.org/international-labour-standards/conventions-protocols-and-recommendations>
- **How International Labour Standards are created**
<https://www.ilo.org/international-labour-standards/how-international-labour-standards-are-created>
- **Overview of the ILO supervisory system**
<https://www.ilo.org/international-labour-standards/ilo-supervisory-system-regular-supervision/applying-and-promoting-international-labour-standards>
- **Committee on Freedom of Association**
<https://www.ilo.org/international-labour-standards/ilo-supervisory-system-regular-supervision/applying-and-promoting-international-labour-standards/committee-freedom-association-cfa>
- **Constitutional reporting and other standards-related obligations: Resources and forms for constituents**
<https://www.ilo.org/international-labour-standards/constitutional-reporting-and-other-standards-related-obligations-resources>
- **Monitoring compliance with international labour standards: The key role of the ILO Committee of Experts on the Application of Conventions and Recommendations**
<https://www.ilo.org/publications/monitoring-compliance-international-labour-standards-key-role-ilo-committee>
- **The Committee on the Application of Standards of the International Labour Conference: A dynamic and impact built on decades of dialogue and persuasion**
<https://www.ilo.org/publications/committee-application-standards-international-labour-conference-dynamic-and>
- **70 Years of the ILO Committee on Freedom of Association: A Reliable Compass in Any Weather**
<https://www.ilo.org/publications/70-years-ilo-committee-freedom-association-reliable-compass-any-weather>

> Need help?

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Notes :

AFTERWORD ... TO THE TRADE UNIONIST READER **OF THE BROCHURE AND USER OF THE TOOL...**

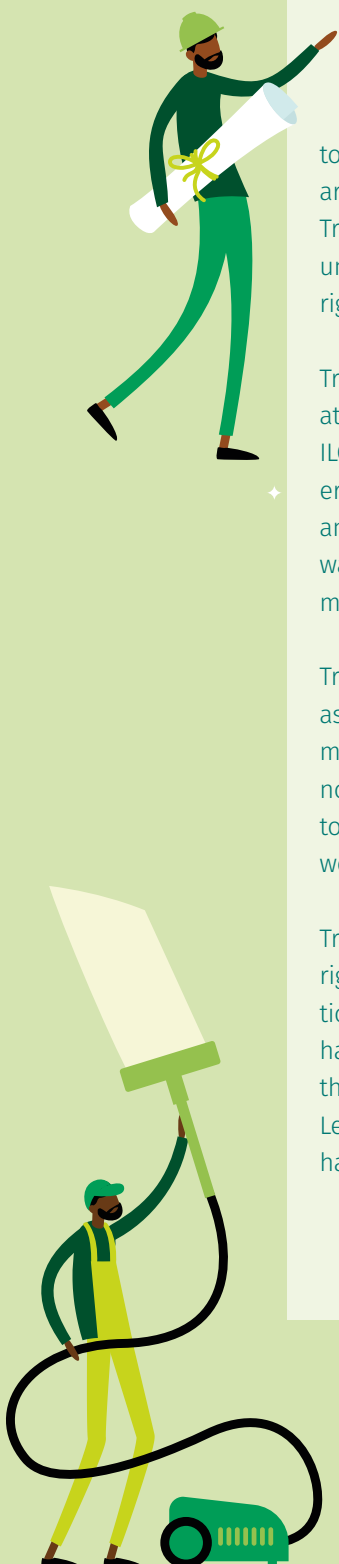
Long before there was ever any talk of SDG's or Agenda 2030, there was a Declaration for Worldwide Sustainable Development. For trade unions throughout the world the International Labour Organization that was created 106 years stands as a bulwark for workers' rights with its mission to achieve peace through social justice. At the core of the ILO's effectiveness are the processes of standard setting, supervision and technical cooperation. Tripartism and social dialogue remain central to its governing structure. Trade unions participate in standard setting and in supervising respect for labour rights.

Trade unions have been the driving force in establishing rights for workers at workplace, sector, national and also at global under the aegis of the ILO. This has been possible only through negotiations with employers and governments, after often long and hard industrial actions and campaigning. Trade unions have once again a key role to play as watchdogs on behalf of all workers, with a particular attention for the most vulnerable workers, to ensure that rights are respected.

Trade unionist reader, this brochure and tool has been developed for you to assist you in this mission, facilitating your participation in the ILO supervisory mechanisms in monitoring respect of labour rights and if need be, to denounce violations of labour rights. The ILO will not be effective in its mission to serve social justice unless trade unions take up this mission at every workplace, in all communities and in all countries across the globe.

Trade unions can make the difference towards better respect for workers' rights. We are uniquely qualified for this because of our essential internationalist mission and organisational structures. We do not walk alone but we have at our disposal a worldwide trade union action network organisation, that is the ITUC, and in the particular domain of respect of labour rights, the Legal and Human and Trade Union Rights Department of the ITUC. And we have the ILO, and in particular the Bureau of Workers' activities or ACTRAV.

READER YOU CAN MAKE THE DIFFERENCE.



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partner in development