
Committee on the Application of Standards

**Information supplied by governments on
the application of ratified Conventions**

Guatemala

Convention No. 87

**Freedom of Association and Protection of
the Right to Organise Convention, 1948 (No. 87)**

Guatemala (Ratification: 1952). The Government has provided the following written information.

**1. Progress in compliance with the road map deriving from the complaint of non-observance
of Convention No. 87, presented under Article 26 of the ILO Constitution**

1.1 Investigation of murders and of rulings handed down to date

The Government of Guatemala expresses its concern at these incidents and, through the Special Investigation Unit for Crimes against Trade Unionists, which is part of the Public Prosecutor's Office, is continuing its investigation with a view to convicting the perpetrators of the crimes concerned. In March 2016 the 326th Session of the Governing Body was informed of 14 convictions. Since then there has been further progress in the investigation.

The Special Unit of the Public Prosecutor's Office has made progress in its inquiries into the case of Mr Bruno Ernesto Figueroa, who was a member of the healthcare integration system subsidiary of the National Trade Union of Health Workers of Guatemala (SNTSG), as follows: (a) on 14 April 2016 formal charges were brought and the opening of proceedings was requested against four persons for the crimes of murder, attempted murder and criminal conspiracy; (b) on 16 May 2016 the Department of Guatemala Tenth Court of First Instance dealing with drug trafficking and crimes against the environment allowed the charges and criminal proceedings were opened; (c) the hearing for the start of the public trial of one additional person charged with obstruction of justice and criminal conspiracy is due to take place on 29 August 2016.

**1.2 Progress on the cooperation agreement between the International Commission against
Impunity in Guatemala (CICIG) and the Public Prosecutor's Special Investigation Unit for
Crimes against Trade Unionists**

On the basis of the cooperation agreement between these two bodies, four meetings were held to follow up the investigations and solve the crimes. Observations and recommendations were made at the

meetings with regard to a number of cases, resulting in a five-year sentence for Mr Gerardo Aníbal López (convicted) in the case concerning Mr Marlon Dagoberto Vásquez (victim) and the termination of criminal proceedings in the case concerning Mr Jorge Ricardo Barrera Barco (victim) on account of the death of the accused, Mr Rómulo Emanuel Mejía Peña.

Recently, the Ministry of Labour held several meetings with the Public Prosecutor's Office and the CICIG to follow up the former's inquiries, and the CICIG was asked to cooperate speeding up the investigation of the abovementioned cases. The Commissioner and Public Prosecutor said that they fully supported the efforts to solve the crimes.

1.3 General Instruction No. 1-2015 to improve the efficiency of the investigation into the murder of union officials and members

1.3.1 Case of Mr Mynor Rolando Castillo Ramos

Since General Instruction No. 1-2015 came into force, the Special Investigation Unit has complied with the investigation procedures established in the instruction. Evidence of this is the investigation into the death of Mr Mynor Rolando Castillo Ramos, a member of the Jalapa Municipal Workers' Union, which occurred in 2015. The investigation, which was quickly undertaken, enabled the Public Prosecutor's Office to bring formal charges and the trial of the accused to begin.

On 18 May 2016 the Department of Jalapa Court of First Instance dealing with drug trafficking and crimes against the environment allowed the charges and opened criminal proceedings one person charged with murder and attempted murder; the accused had previously been under psychiatric treatment.

1.4 Risk assessments for union officials and members and adoption of protective measures

First quarter of 2016

The Ministry of the Interior reported that in the first quarter of 2016 it received 14 complaints/requests regarding safety measures, in response to which the Risk Assessment Department of the Personal Protection and Security Division of the National Civil Police analysed the risks incurred and concluded that the level of risk was low. Consequently, no protective measures were taken.

1.4.1 Requests for application of the preventive security mechanism according to the Protocol for the Implementation of Immediate and Preventive Security Measures for Human Rights Activists, presented by the Public Prosecutor's Office

In the first quarter of 2016 the Public Prosecutor's Office, through its Special Unit, requested the Ministry of the Interior to issue seven personal preventive security measures for trade union leaders and members. In addition, requests were made to the National Civil Police for eight perimeter security measures.

1.5 The 1543 hotline for acts of violence or threats against human rights activists

The specialists working on the 24-hours hotline coordinate immediate support through the National Civil Police and by activating the Protocol for the Implementation of Immediate and Preventive Security Measures in favour of the victims concerned, while the risk assessment is being carried out.

During the first quarter of 2016 calls to the hotline gave rise to two complaints to the Public Prosecutor's Office, which are being investigated by the Special Investigation Unit for Crimes against Trade Unionists and the Special Investigation Unit for Crimes against Journalists.

1.6 Training on freedom of association for officials operating the 1543 hotline

On 29 March 2016, with technical assistance from the ILO, the Ministry of Labour and Social Welfare provided training on the right to freedom of association, the right to organize and the right to collective bargaining, for officials operating the 1543 hotline of the Ministry of the Interior, advisers at the Ministry of Labour call centre and other officers of the National Civil Police. A total of 50 persons were involved in the training, which aimed to equip them with the tools to apply the necessary mechanisms to ensure the safety of individuals who have trade union connections in Guatemala.

1.7 Progress on the Protocol for the Implementation of Immediate and Preventive Security Measures for trade union members, officers, activists and leaders, and labour rights activists, and on the provision of premises to perform their activities

On 23 February, 16 March and 17 May 2016 round tables attended by the institutions concerned and the trade union sector were held to revise the Protocol for the protection of trade unionists. On 23 February it was agreed to wait for observations from the trade union sector before continuing to draft the Protocol; these observations were sent on 1 March

The purpose of the 17 May meeting of the round table on trade union matters was to present, revise and discuss the draft Protocol from the Ministry of the Interior. At the meeting it was agreed that the trade union federations would submit their comments and observations by 24 May, with a view to reaching an agreement and signing the Protocol. However, on 23 May, the Autonomous Popular Trade Union Movement and Global Unions of Guatemala sent a note stating that the Protocol had been imposed on them, that no account had been taken of the unions' requests, and that if these were included in the instrument, they would be in a position to study it and possibly give their approval.

The Government therefore made further arrangements for the trade unions to make their comments and express their views so that the terms of the Protocol could be upon and approved. The Government thus kept the dialogue open to make it clear that it was not imposing a Protocol without its endorsement by the unions, and so that it could be implemented on an ongoing basis by the Ministry of the Interior.

1.8 Establishment of a budget item to cover the costs of National Civil Police officers assigned to personal protection duties

It is important to emphasize that no one benefiting from security measures is required to pay for food, lodging or other expenses for the officers assigned to them. The procedure is currently being assessed to improve the financial conditions of officials assigned to the Personal Protection and Security Division, as the budget allocated to the National Civil Police and the Ministry of the Interior is not sufficient to cover costs. A special bonus payment for the officials is under discussion.

2. Legislative reforms

A consultant has been engaged under contract to draw up the preliminary draft text of the reforms of the Labour Code in relation to freedom of association and collective bargaining with a view to bringing its provisions into conformity with Convention No. 87. It is planned to submit the draft reforms to Congress following consultations with the workers and employers at the end of September 2016.

The Labour Commission of the Congress of the Republic has been approached concerning the harmonization of the legislation with international labour standards, starting with public campaigns on the importance of the reforms to the Labour Code and involving joint communication and analysis by the Ministry of Labour and Social Welfare and the Labour Commission.

A preliminary draft has been prepared of a legislative initiative to amend the Labour Code in relation to the application of administrative penalties for labour law violations dealt with by the General

Labour Inspectorate, which will be submitted for tripartite consultation as soon as possible before being tabled in the Congress of the Republic.

3. Register of trade unions

The Ministry of Labour, through the General Directorate of Labour, receives applications for the registration of trade unions and the recognition of their legal personality. There has been a significant increase in the registration of trade unions, with 52 unions being registered in the last quarter of 2015 and 61 in the first quarter of 2016.

3.1 Review and settlement of disputes by the Committee for the Settlement of Disputes in the area of Freedom of Association and Collective Bargaining

The Committee for the Settlement of Disputes referred to the ILO in the area of Freedom of Association and Collective Bargaining (the Dispute Settlement Committee), which has been operating since 2014, is reviewing 18 cases, in nine of which there are complaints pending before the Committee on Freedom of Association, while nine complaints have been brought directly to the Dispute Settlement Committee. The cases have been reviewed and examined by the Mediator and the Technical Secretariat to identify those which could be resolved by the Dispute Settlement Committee. Information will be provided on the outcome of this work.

3.2 Public awareness campaign on freedom of association and collective bargaining

Work has begun on launching and promoting the public awareness campaign, translated into the Maya, Kaqchikel and Kiche languages for the purpose of community radio broadcasts throughout the country that reach eight million listeners, as well as other initiatives to promote the freedom of association and the right to bargain collectively. The campaign is aimed at sectors where there are few trade unions, such as the *maquila* sector.

Information is available on the websites and social media of 14 government institutions: Secretariat of Planning and Programming of the Office of the President; Secretariat for Food Security and Nutrition; Secretariat for Peace; Civil Aviation Authority; Ministry of Culture and Sport; Ministry of the Economy; Ministry of Agriculture and Livestock; Ministry of Social Development; Ministry of Communication; Ministry of Finance; Ministry of the Interior; Ministry of Foreign Affairs; TGW Radio; and the Government television channel.

In conclusion, it is important to note that, additionally, the Government has submitted an amendment to the annual Budget to the Congress that increases the financial resources of the Judiciary so as to allow it to deal with and resolve the cases before it, to do away with impunity and to facilitate access to justice in Guatemala. This is all part of a process of short-, medium- and long-term structural reform in the country. A national dialogue headed by the Presidents of the three senior bodies was accordingly launched in May 2016 in order to combat impunity, under the slogan “For a new system of justice in Guatemala”.