



## **Governing Body**

333rd Session, Geneva, 9 June 2018

**GB.333/INS/6/1(Add.)**

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**Institutional Section**

**INS**

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**Date:** 18 May 2018

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SIXTH ITEM ON THE AGENDA

### **Reports of the Committee on Freedom of Association**

#### **Presentation of the Committee on Freedom of Association 2017 – Annual report**

##### ***Addendum***

The consideration of the attached document was deferred to the present session of the Governing Body from its 332nd Session (March 2018).



## **Governing Body**

332nd Session, Geneva, 8–22 March 2018

**GB.332/INS/11/1(Add.)**

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**Institutional Section**

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ELEVENTH ITEM ON THE AGENDA

## **Reports of the Committee on Freedom of Association**

### **Presentation of the Committee on Freedom of Association 2017 – Annual report**

#### ***Addendum***

1. The Committee recalls that it reported its decision to prepare an annual report for submission to the Governing Body in March 2018.
2. The Committee has the honour to present to the Governing Body its first annual report (see annex) which it sees as intrinsically linked with ongoing discussions in the Governing Body on the Standards Initiative (GB.332/INS/5, paragraph 68). This annual report emanates from the March 2017 Workers' and Employers' groups Joint Statement which stated that: "On the basis of a proper 'clarification of the role and mandate of the CFA ... vis-à-vis regular standards supervision' (Joint Statement of 2015), every year the Chairperson of the CFA could present to the CAS a report of activities, after the report of the Chairperson of the CEACR. This information would be important for the CAS to show the complementarity of the committees and could limit double procedures about the same cases.".
3. The report is intended to provide useful information on the use of the CFA procedure throughout the year, supported by statistical data and other details with regards to the work undertaken by the CFA, the progress made and the serious and urgent cases examined by the Committee. The report covers the period of 2017 (its March, May–June and October–November 2017 sessions).

#### **Draft decision**

4. *The Committee invites the Governing Body to take note of its first annual report.*

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## Annex

### The CFA annual report – 2017

#### I. Background information

1. The CFA is a tripartite body set up in 1951 by the Governing Body of the ILO. The CFA examines alleged infringements of the principles of freedom of association and the effective recognition of the right to collective bargaining enshrined in the Constitution of the International Labour Organisation (Preamble), in the Declaration of Philadelphia and as expressed by the 1970 ILC Resolution.
2. The CFA is composed of nine regular members and nine deputies from the Government, Workers' and Employers' groups of the Governing Body, and has an independent Chairperson. The CFA meets three times a year and examines complaints lodged against governments whether or not the government has ratified any of the relevant ILO freedom of association Conventions. The conclusions issued by the CFA in specific cases are intended to guide the governments and national authorities for discussion and the action to be taken to follow up on its recommendations in the field of freedom of association and the effective recognition of the right to collective bargaining. The object of the CFA complaint procedure is not to blame or punish anyone, but rather to engage in a constructive tripartite dialogue to promote respect for trade union rights in law and practice. When doing so, the CFA is cognizant of different national realities and legal systems.

#### II. Appreciation of progress on working methods and ongoing reflections

3. The new members of the Committee on Freedom of Association appointed in June 2017 pursued active and constructive discussions on the Committee's working methods in dedicated sittings both in November 2017 and this March 2018. Besides its work on the annual report and consideration of the progress on the case management system and the completion of the compilation of decisions which is described later in this report, the Committee had further discussions on its mandate, its contribution to the ILO centenary and reflections on trends in the use of its procedure.

#### III. Objective of the annual report

4. The report is intended to provide useful information on the use of the CFA procedure throughout the year, supported by statistical data and other details with regards to the work undertaken by the CFA, the progress made and the serious and urgent cases examined by the Committee. The report covers the period of 2017 (its March, May–June and October–November 2017 sessions).
5. This first annual report aims to show developments over the years in the use of this special procedure. The statistical information on cases treated in 2017 will set the baseline for comparison over future years.

#### IV. Modernization of case management and internal methods of work of the Office

6. The streamlining of procedures and ensuring of greater transparency is being pursued within the framework of the Governing Body's discussion last November on the Standards

Initiative (GB.329/INS/5) and the agreement to finance an electronic document and information management system for the supervisory bodies.

## **V. Compilation of decisions of the CFA**

7. Following previous decisions of the Committee and the Governing Body, and recalling the principles of universality, continuity, predictability, fairness and equal treatment, which it must ensure in the area of freedom of association, the Committee takes this opportunity to inform the Governing Body that the work for the compilation in concise form of its decisions in more than 3,200 cases over 65 years has been completed. The electronic database of the compilation with simple search features and easy access to the full context of the complaints has been finalized and will be available online while the Office is proceeding with its publication in hard copy all in time for the next CFA meeting in May–June 2018.

## **VI. CFA subcommittee role**

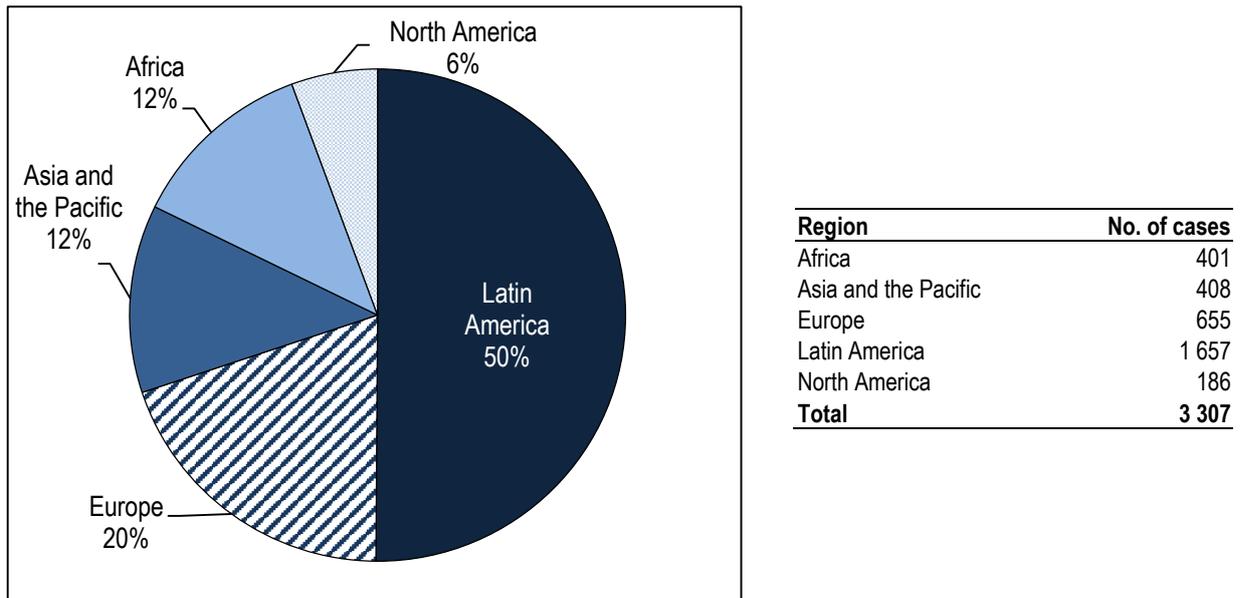
8. Since May 2016, the CFA operates on the basis of the preparatory work undertaken by the subcommittee. The CFA subcommittee, whose proposals are placed before the Committee for final decision, has thus appreciably strengthened the Committee's governance role with respect to four aspects of its work: (a) the identification of priority cases for examination; (b) the setting of the agenda of the next Committee meeting, ensuring rapid examination of serious and urgent cases and relative regional balance; (c) a dynamic follow-up review of the effect given to its recommendations; and (d) an improved presentation of the introduction to the Committee's report to communicate more clearly and effectively its expectations to constituents.

## **VII. Statistical information on the CFA**

9. Currently, there are 176 “active cases” and 174 cases in “follow-up status” before the CFA.<sup>1</sup> The charts below provide data on the complaints submitted to the CFA since its creation and per region (figure 1), as well as by decade (figure 2). Charts on the complaints presented in the last two decades and per region are also presented (figures 3 and 4). The last chart focuses on the complaints presented before the CFA per year, over the last decade (figure 5). From this data it may be noted that while there is a trend towards the decrease of the use of this special procedure in Europe and Africa, Asia shows a certain stability, and there is a sharp increase in its use in Latin America.

<sup>1</sup> A clarification on the meaning of these “statuses” is presented in para. 14.

**Figure 1. Complaints presented before the Committee on Freedom of Association (1951–2017)**



**Figure 2. Complaints presented before the Committee on Freedom of Association (1951–2017) by decade, per region**

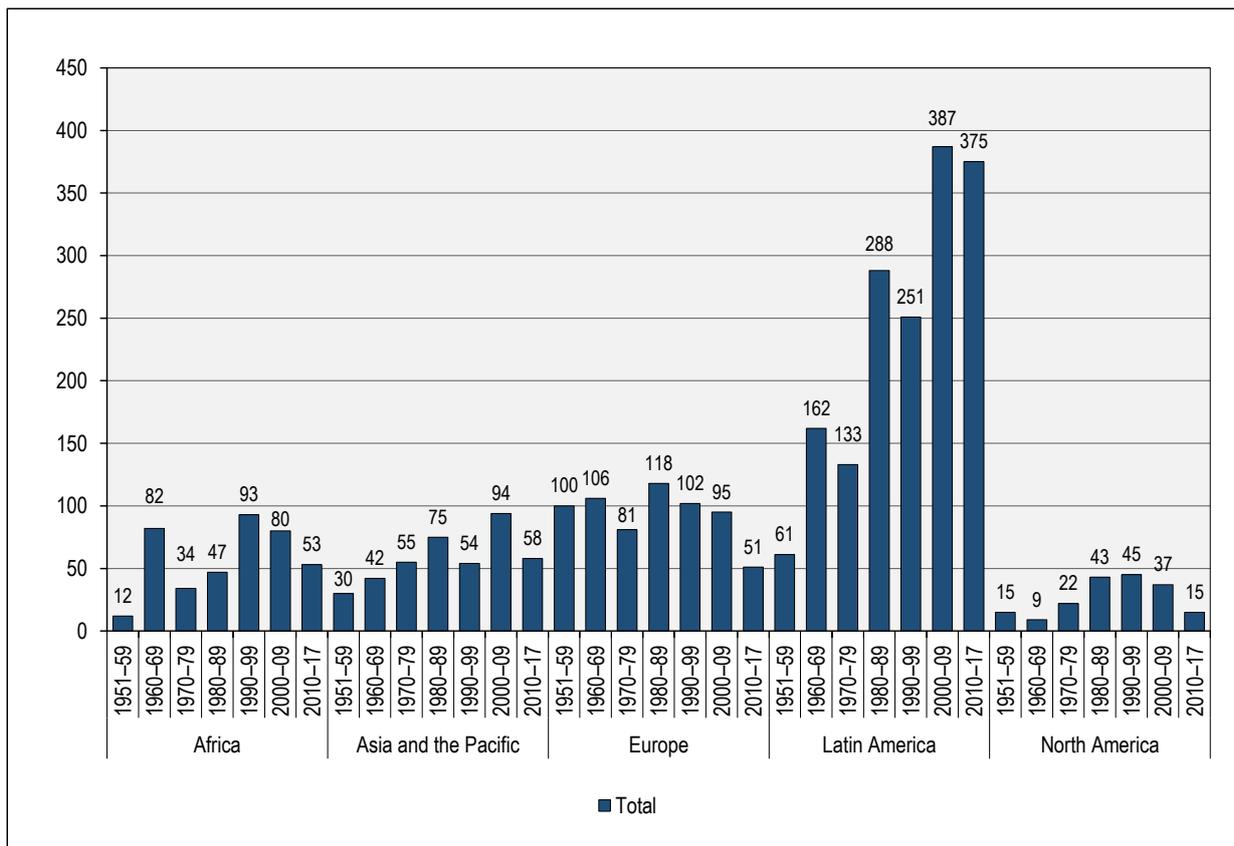
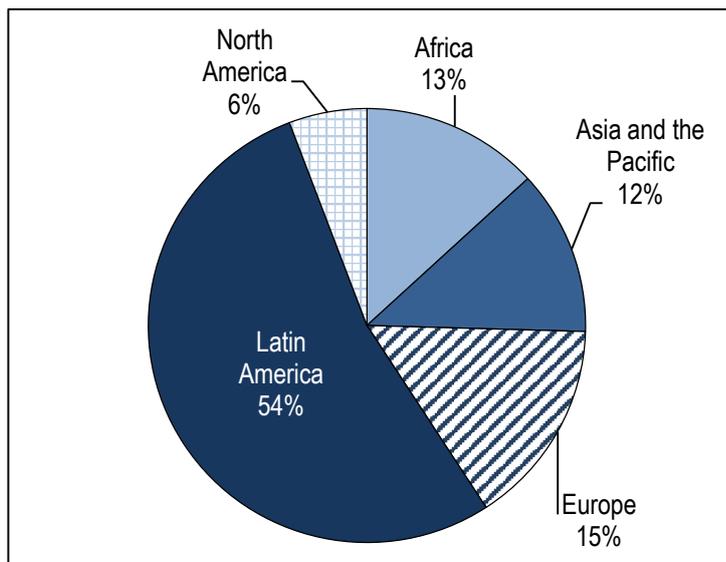
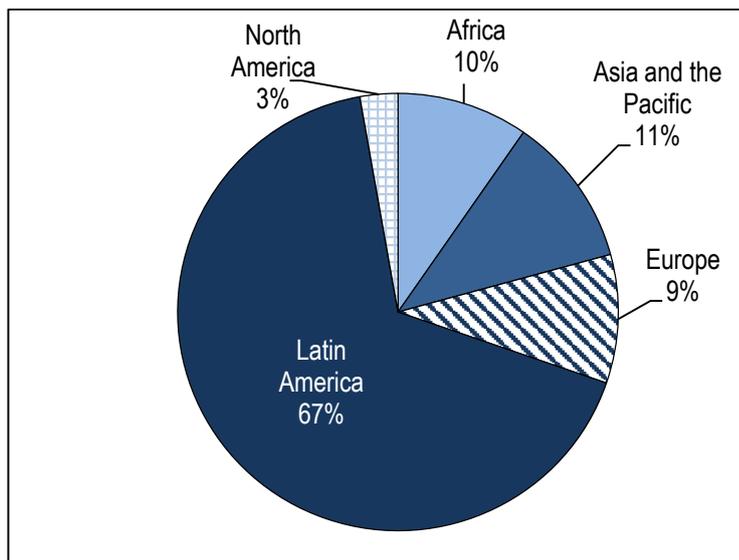


Figure 3. Complaints presented before the Committee on Freedom of Association (1998–2007)

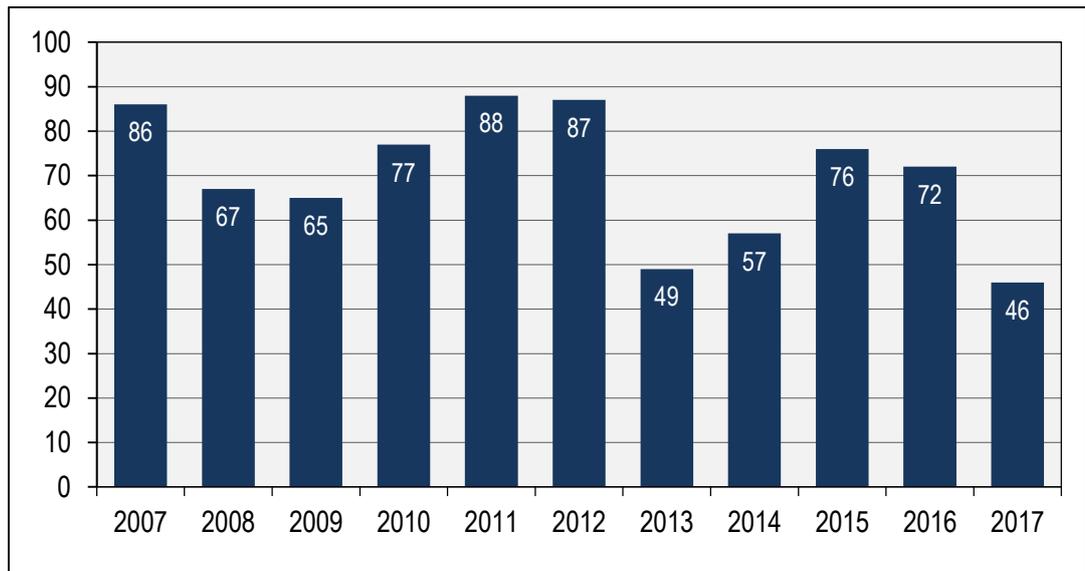


Region	No. of cases
Africa	89
Asia and the Pacific	83
Europe	104
Latin America	361
North America	39
<b>Total</b>	<b>676</b>

Figure 4. Complaints presented before the Committee on Freedom of Association (2008–17)



Region	No. of cases
Africa	66
Asia and the Pacific	76
Europe	65
Latin America	458
North America	19
<b>Total</b>	<b>684</b>

**Figure 5. Complaints presented before the Committee on Freedom of Association per year (2007–17)**

### ***Serious and urgent cases***

10. The percentage of the Committee’s work dedicated to serious and urgent cases, the number of urgent appeals necessary to alert government attention to the need to rapidly provide the requested information and the percentage of cases treated which have garnered international support for their consideration can be seen in figures 6, 7 and 8. The prioritization of serious and urgent cases – cases which involve matters of human life or personal freedom, new or changing conditions affecting the freedom of action of a trade union movement/employers’ organization as a whole, cases arising out of a continuing state of emergency and cases involving the dissolution of an organization – has shown to be effective as the Committee was able to examine 11 of the 14 serious and urgent cases pending before it in 2017.

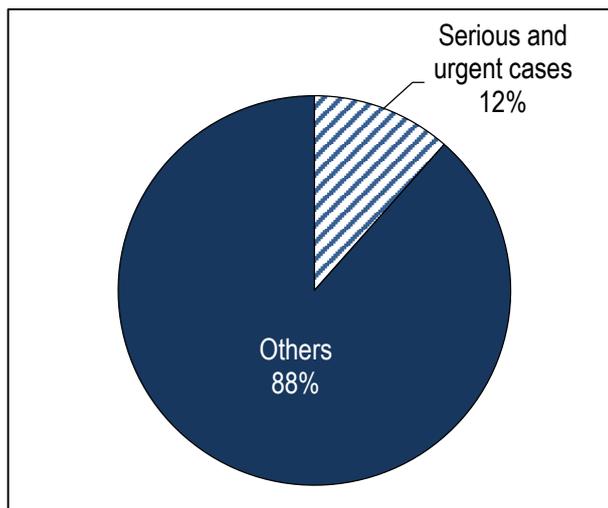
### ***Urgent appeals***

11. Specifically as regards the use of urgent appeals where the Committee was obliged to give notice to governments that it would examine their case at the next session even in the absence of a reply, the fact that governments provided the necessary information in 11 out of the 15 cases concerned which attests to the positive impact of this tool coupled with the clear indication of deadlines for governments to send their replies now communicated by the Committee to ensure its effective functioning. The Committee invites the governments concerned to proactively engage with the Office should they have any queries as to the expectations from the Committee’s procedure and requests the Office to continue the collaboration with its field offices to facilitate the exchange of information.

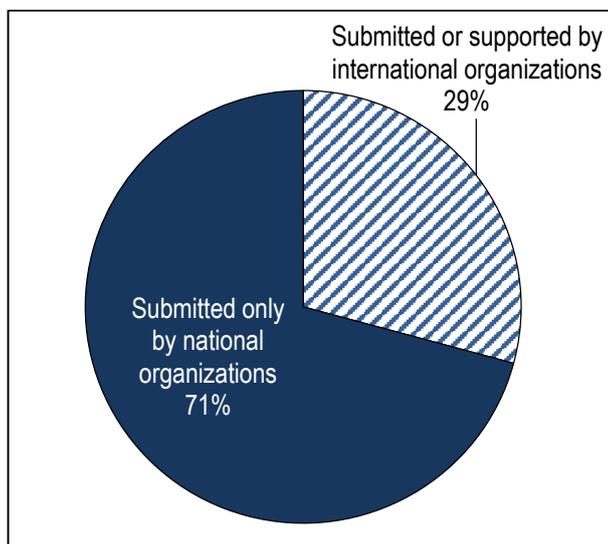
### ***Governments’ reply***

12. With the aim of obtaining adequate and complete replies from the government, the Committee has had more frequent recourse to its procedures (paragraphs 60–62 and 69), which provide for more direct dialogue with governments either through its chairperson or a group of its members or by inviting governments to come before it so as to obtain more complete information on the matters at hand. The Committee has had recourse to these measures on several occasions over the last year, meeting with government representatives from four countries in 2017.

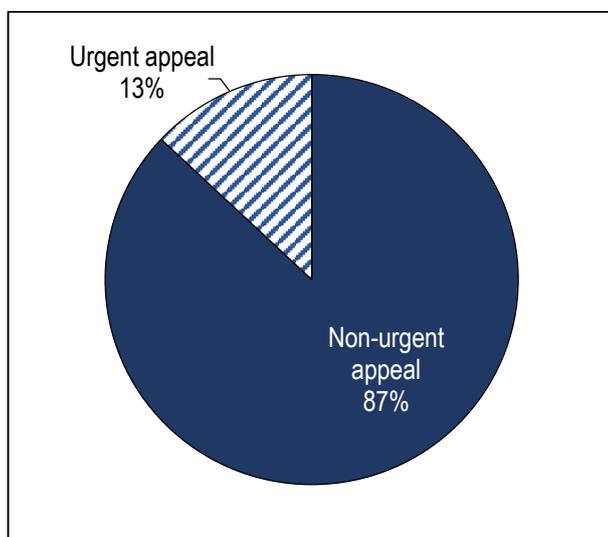
**Figure 6. Serious and urgent cases treated in 2017**



**Figure 7. Cases examined in 2017 that were supported by international organizations**



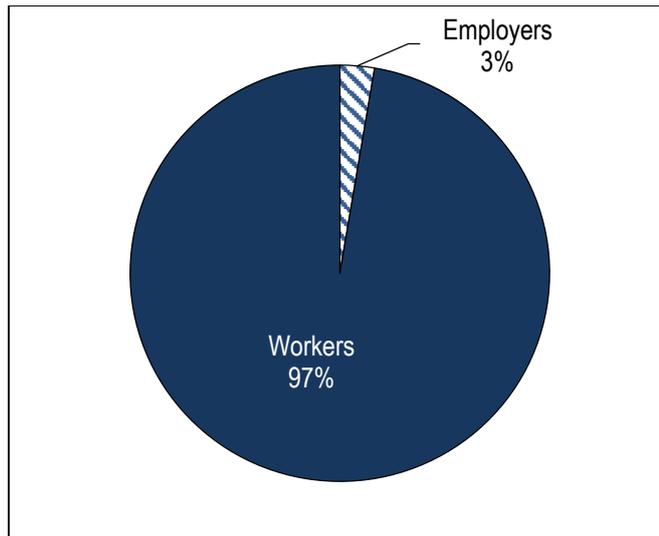
**Figure 8. Urgent appeal cases in 2017**



### Origin of complaints and nature of allegations

13. In 2017, 113 cases have been examined by the CFA, of which 97 per cent originate from workers' organizations and 3 per cent from employers' organizations (figure 9). Also, in 2017, 57 per cent of cases examined were related to matters concerning the private sector, while 34 per cent were related to the public sector and 11 per cent related to both sectors (figure 10). The protection against anti-union discrimination, conflict related to the signature of collective bargaining agreements, and the threats to trade union rights and civil liberties, have been the topics more frequently examined by the CFA in 2017 (figure 11).

**Figure 9. Active cases examined in 2017 presented by workers' or employers' organizations**



**Figure 10. Public sector versus private sector in 2017**

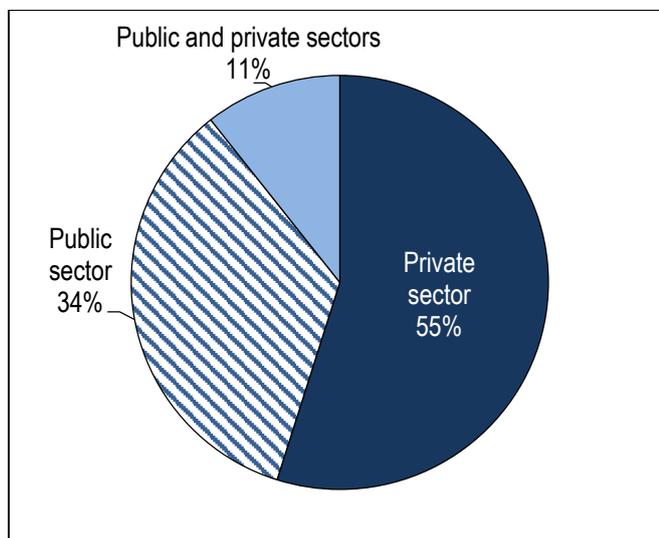
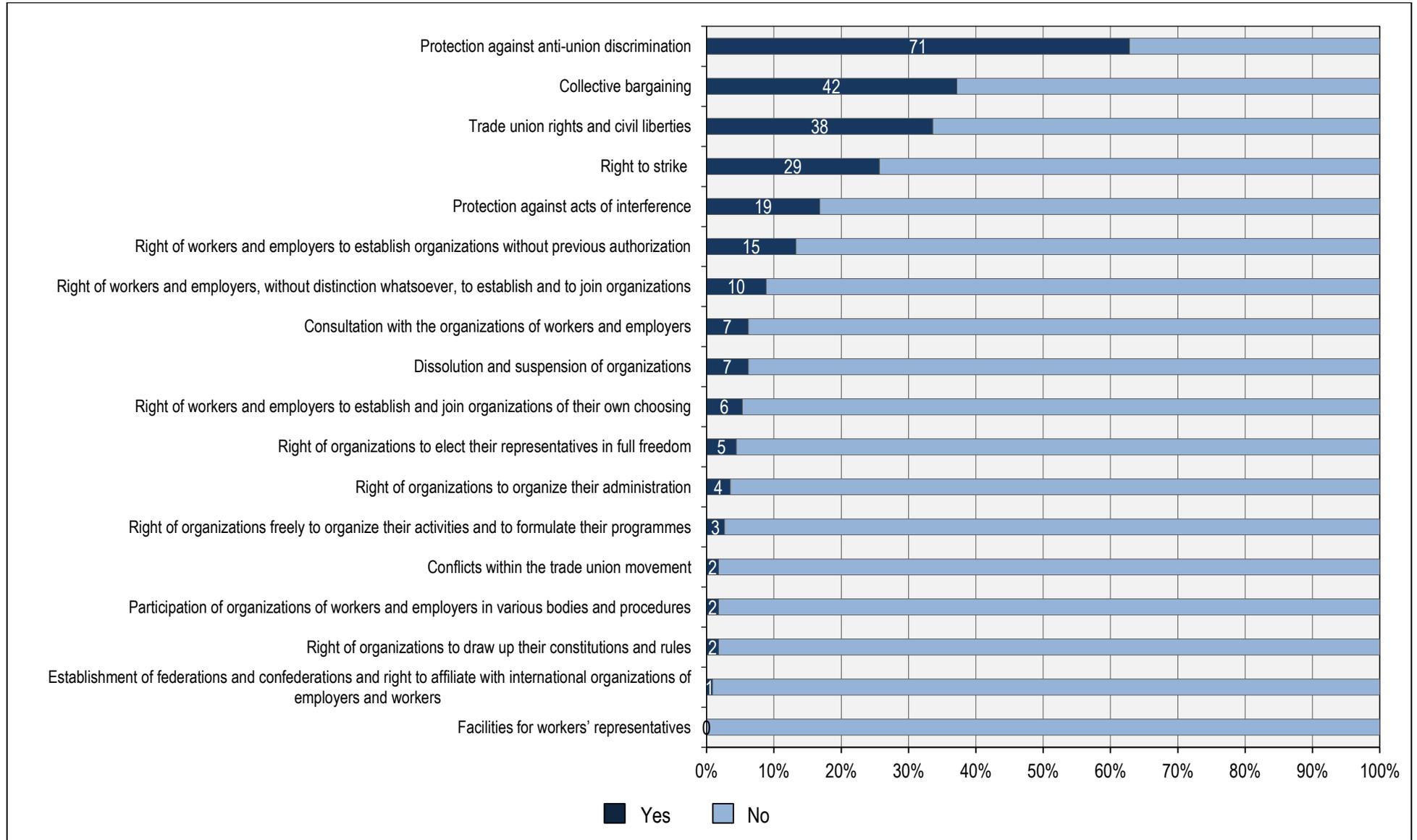


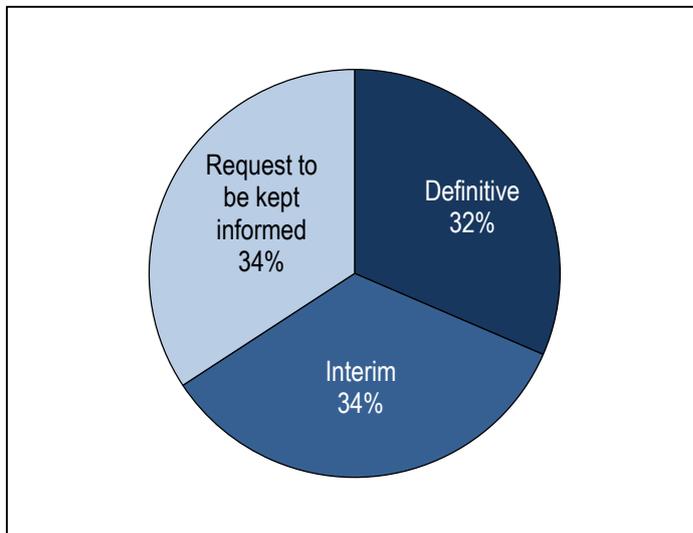
Figure 11. Cases examined in 2017 concerning type of allegations



## VIII. Reports examined in 2017 and follow-up action

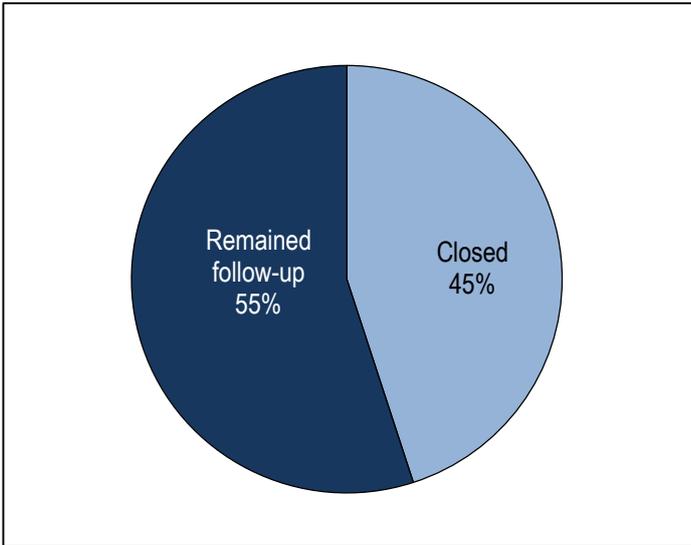
14. The Committee issues “definitive” reports when it feels that the matters do not call for further examination and are effectively closed, “interim” reports where it requires further information from the parties to the complaint and “follow-up” reports where it requests to be kept informed of developments. Follow-up cases are subsequently “closed” when the matters have been resolved or the Committee considers that they do not call for further examination.
15. The follow-up cases may also remain in “follow-up”. Figure 15 shows the percentage of cases that no longer call for the examination by the Committee (“definitive reports” or “closed cases”) either because the matters can be effectively handled at national level, because resolution has been achieved by the parties, because the governments have provided information demonstrating the effective follow-up of the Committee’s recommendations or quite simply because the Committee has found no violation of freedom of association principles.
16. In 2017, the CFA examined 73 active cases and 40 cases in “follow-up status” (already examined in the past), for a total of 113 cases. Within the 73 active cases, the Committee took the following decisions: 23 cases were “definitive” (closed), 25 cases were “interim” and for 25 cases the Committee has requested the Government to keep it informed. Among the 40 cases in “follow-up status” in 2017, the Committee has closed 18 cases and 22 examined cases remained in “follow-up status”. In summary, among the 113 cases examined in total in 2017, the CFA has been able to close 41 cases (36 per cent), while 25 active cases remain before the Committee (“interim status” – 22 per cent) and 47 are maintained under a “follow-up status” (42 per cent).

**Figure 12. Active cases: Type of report in 2017**



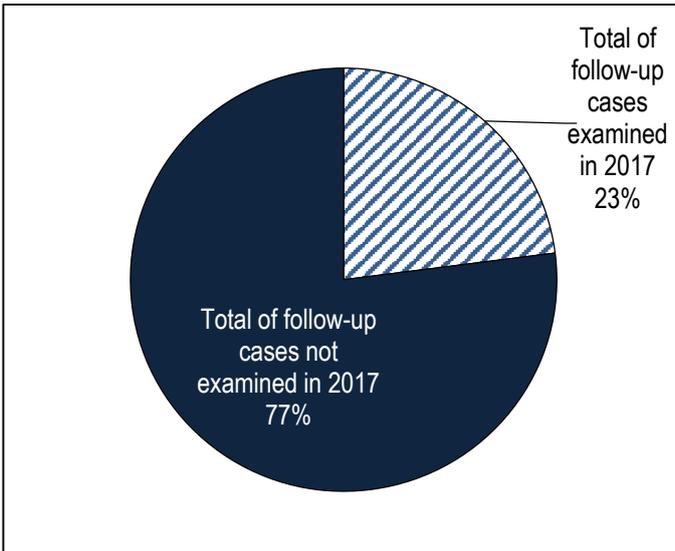
Type of report:	Number of active cases
Definitive	23
Interim	25
Request to be kept informed	25
<b>Total</b>	<b>73</b>

Figure 13. Follow-up cases: Case status in 2017

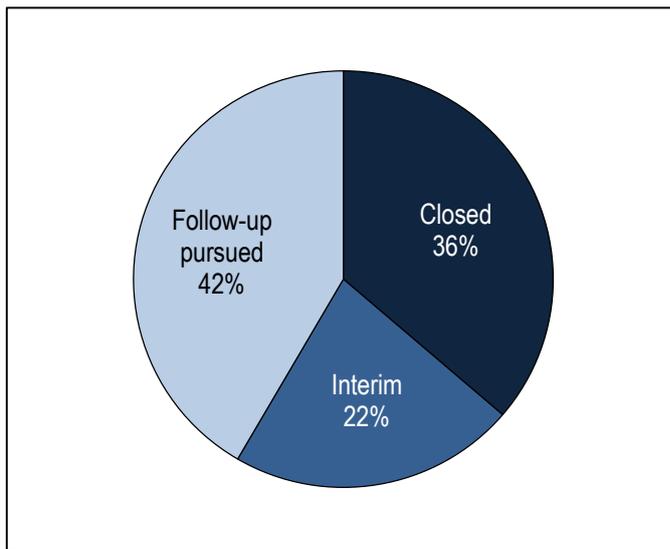


Type of report: Definitive/Interim/CFA requests to be kept informed (follow-up)	Number of follow-up cases
Closed	18
Remained follow-up	22
<b>Total</b>	<b>40</b>

Figure 14. Follow-up cases examined in 2017



Note: In total there are 174 follow-up cases before the CFA. A total of 40 follow-up cases were examined in 2017.

**Figure 15. Status of reports 2017 (total: active and follow-up cases)**

Type of report: Definitive/Interim/CFA requests to be kept informed (follow-up)	Number of cases
Closed (not calling for further examination)	41
Interim	25
Follow-up to recommendations	47
<b>Total</b>	<b>113</b>

### **Cases of progress**

17. There have been a number of important cases of progress during this period, including improved social dialogue at national level on socio-economic interests, the broadened scope of legislation to ensure greater protection for trade union rights, dialogue with parliamentarians on freedom of association principles, conclusions on long-standing conflicts through the signing of collective agreements, the reinstatement of dismissed trade union leaders, improved registration processes and expedited judicial proceedings and investigations, check-off facilities restored and satisfactory resolution following allegations of interference in an employers' organization.

### **Pending cases**

18. Numerous cases pending, as well as four article 24 representations which are before the Committee, require the governments to provide full replies to the requests made in these cases. The Committee has requested the complainants to provide specific information in 15 of the cases examined in 2017 and reminds complainants that effective examination and follow-up to its recommendations is also dependent on their timely provision of the information requested.
19. Similarly, the Committee observes that no information on the follow-up given to its recommendations has been provided – either by governments or by complainants – in respect of 16 follow-up cases for over one year rendering meaningful follow-up of its recommendations illusory. It encourages all parties concerned to ensure that the Committee is effectively informed of developments with a view to the satisfactory conclusion of cases. Moreover, the Office will exchange with its regional offices with the aim of facilitating the flow of information.
20. Last year, the Committee transmitted the legislative aspects of 14 cases to the Committee of Experts on the Application of Conventions and Recommendations. The Committee has indicated its interest in receiving feedback from the Committee of Experts as to developments in these cases.
21. In 2017, the Committee suggested to governments to avail themselves of ILO technical assistance in 11 cases with a view to addressing its conclusions and recommendations. During this period, the Committee noted that two governments have requested and received assistance.