



International  
Labour  
Organization

# The ILO supervisory system:

A GUIDE FOR CONSTITUENTS



## REGULAR SUPERVISION

**International labour standards (ILS) are backed  
by a unique supervisory system comprised  
of independent legal experts and tripartite bodies**

Regular supervision supports member States in giving effect to ILS  
in pursuit of decent work and sustainable development.



## SPECIAL PROCEDURES

**International labour standards (ILS) are backed  
by a unique supervisory system comprised  
of independent legal experts and tripartite bodies**

The special procedures enable constituents to raise with the ILO  
alleged shortcomings in the manner States give effect to ILS  
or realize the fundamental principles of the ILO.

# The ILO supervisory system:

## A GUIDE FOR CONSTITUENTS

Since 1919, the [International Labour Organization \(ILO\)](#) has established and developed a system of [international labour standards \(ILS\)](#) governing a wide range of issues arising in the world of work on a daily basis, and a unique supervisory system advancing the effective implementation of ILS at the national level.

The [ILO Centenary Declaration for the Future of Work \(2019\)](#) reaffirmed that the setting, promotion, ratification and supervision of ILS is of fundamental importance to the Organization. This requires the ILO, in its second centenary, to have and promote a clear, robust, up-to-date body of ILS and ensure their effective application is subject to a transparent, authoritative and effective system of supervision. ILS need to respond to the changing patterns of the world of work, for the purpose of the protection of workers and taking into account the needs of sustainable enterprises. The ILO must assist its member States in the ratification and effective application of ILS.

The COVID-19 pandemic has not suspended the application of ILS, which have remained the tried-and-trusted foundation for policy responses also in times of crisis. As the focus shifts to a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient, respect for ILS, and promotion of their ratification, implementation and supervision should be reinforced. In a [Global Call to Action \(2021\)](#) for such human-centred recovery, governments, workers' and employers' organizations collectively committed to paying particular attention to areas where serious gaps have been revealed by the crisis.

Inspired by this vision, this Guide presents the functioning of the supervisory system in relation to the application of ILS. It hopes to realize transparency in established practices across the supervisory system, thus ensuring a level playing field of knowledge for governments, employers, workers and their organizations. Since tripartism is an integral aspect of the system of supervision, the Guide does not only explain the main steps of each procedure, but also provides details on each step from the perspective of each group of constituents.

The Guide is an evolving tool, which will be updated regularly to reflect the evolution of the supervisory system for achieving progress and social justice.



# Regular supervision

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Regular supervision

# With reports on new ILS, on unratified Conventions and on Recommendations

## Article 19

Member States report on the consideration they give to implementing ILS that are newly adopted by the International Labour Conference, as well as those early adopted.

Member States give consideration to implementing ILS adopted by the International Labour Conference.

- ▶ When the International Labour Conference newly adopts a Convention, a Recommendation or a Protocol.

## ▶ 1. The International Labour Conference adopts new instruments

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### I: ILS are adopted by the International Labour Conference.

ILS are [adopted](#) by the International Labour Conference by a 2/3 majority vote. They take the form of Conventions or Protocols that are binding on member States when ratified, and Recommendations that give non-binding guidance. Protocols are used to partially revise existing Conventions and are open to ratification by member States already bound by or simultaneously ratifying and becoming bound by the Convention in question. Click to see a [glossary](#) with definitions of frequently used terms relating to ILS.

The timeline below shows the calendar of action for the adoption of ILS, following the double-discussion procedure. To know more about the standard-setting procedure, a [flowchart presentation](#) is also available.

#### November (year 1) and March (year 2) sessions

##### ▶ Governing Body

- The Governing Body considers the agenda of the International Labour Conference in year 4 and puts the topic on the agenda for standard-setting with a view to a double discussion.
- In cases of special urgency or other special circumstances the Governing Body may decide to refer a standard-setting question to the International Labour Conference with a view to a single discussion.

#### November-December (year 2)

##### ▶ Office

- The white report on law and practice, with the questionnaire on the content of the possible instrument, is made available on the ILO website in the page of the relevant session of the International Labour Conference.

#### November-December (year 2) until June (year 3)

##### ▶ Member States

- States parties to Convention No. 144 hold effective consultations with the representative organizations of employers and workers on replies to the questionnaire.

#### By 30 June (year 3)

##### ▶ Member States

- Replies to the questionnaire are sent to the Office.

##### ▶ Employers' and workers' organizations

- Employers' and workers' organizations wishing to transmit their replies directly to the Office send them.

#### January-February (year 4)

##### ▶ Office

- The yellow report, with the responses to the questionnaire and the proposed conclusions, is made available on the ILO website in the page of the relevant session of the International Labour Conference.

### **January-February (year 4) until May (year 4)**

- ▶ Member States
  - Prepare for the first discussion at the International Labour Conference.
- ▶ Employers' and workers' organizations
  - Prepare for the first discussion at the International Labour Conference.

### **June (year 4)**

- ▶ International Labour Conference
  - First discussion of the proposed instrument at the International Labour Conference.
- ▶ Member States
  - Participate in the work of the technical committee, as appropriate.
- ▶ Employers' and workers' organizations
  - Participate in the work of the technical committee, as appropriate.

### **August-September (year 4)**

- ▶ Office
  - The brown report with the text of the proposed instrument, drafted on the basis of the first discussion at the International Labour Conference, is made available on the ILO website in the page of the relevant session of the International Labour Conference.
- ▶ Member States
  - States parties to Convention No. 144 hold effective consultations with the representative organizations of employers and workers on the proposed text.

### **By 30 November (year 4)**

- ▶ Member States
  - Comments on the draft instrument are sent to the Office.
- ▶ Employers' and workers' organizations
  - Employers' and workers' organizations wishing to transmit their comments on the draft instrument directly to the Office send them.

### **February-March (year 5)**

- ▶ Office
  - The blue report with the revised text, in light of the comments received, is made available on the ILO website in the page of the relevant session of the International Labour Conference.

### **February-March (year 5) until May (year 5)**

- ▶ Member States
  - Prepare for the second discussion at the International Labour Conference.
- ▶ Employers' and workers' organizations
  - Prepare for the second discussion at the International Labour Conference.

## June (year 5)

- ▶ International Labour Conference
  - Second discussion of the proposed instrument at the International Labour Conference and adoption with a 2/3 majority.
- ▶ Member States
  - Participate in the work of the technical committee, as appropriate, and vote in plenary.
- ▶ Employers' and workers' organizations
  - Participate in the work of the technical committee, as appropriate, and vote in plenary.

## **W: All three ILO constituents are involved in adopting ILS at the International Labour Conference.**

The engagement of governments, employers' and workers' organizations – [tripartism](#) – in promoting full, productive and freely chosen employment and decent work for all has always been at the heart of the ILO, and ILS have always been a primary means by which the ILO promotes social justice.

The three constituents are thus fully involved in setting ILS, most importantly:

- when the Governing Body decides to place a standard-setting item on the agenda of the International Labour Conference;
- in the course of national consultations preceding each of the two standard-setting discussions at the International Labour Conference; and
- when the International Labour Conference adopts the ILS.



## **G: All three ILO constituents are involved in adopting ILS at the International Labour Conference.**

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## **E: All three ILO constituents are involved in adopting ILS at the International Labour Conference.**

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- in the course of national consultations preceding each of the two standard-setting discussions at the International Labour Conference; and
- when the International Labour Conference adopts the ILS.

## ► 2. Governments submit new instruments to their competent authorities

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### **I: Member States have an obligation to consider measures for implementing of ILS within 12 or, exceptionally, 18 months from their adoption by the International Labour Conference.**

Under [article 19, paragraphs 5-7, of the ILO Constitution](#), when instruments are adopted at a session of the International Labour Conference they are communicated to all member States for ratification in the case of Conventions, and for consideration with a view to giving effect to them in the case of Recommendations. In all cases, member States shall bring the newly adopted instruments to the authority or authorities within whose competence the matter lies for the enactment of legislation or other action. This is to be done as soon as possible, i.e. within one year or, in exceptional circumstances, no longer than 18 months from the closing of the International Labour Conference session in which the instrument was adopted.

Member States are also required to inform the Director-General, by sending a communication to the Office, about the submission to the competent national authorities within the prescribed time limits.

According to the established practice, the Office:

- sends copies of newly adopted ILS to governments, immediately after the International Labour Conference adopts them;
- sends copies of the same documents to the representative organizations of employers and workers;
- addresses to all governments which have not supplied the information a letter of reminder, one year after the close of the session of the International Labour Conference at which the ILS were adopted; and
- sends a further reminder, when 18 months have elapsed since the close of the relevant session of the International Labour Conference and the information has still not been supplied.

The list of ILS pending submission by each country is available in the NORMLEX database with [country profiles](#).

## **W: Workers' organizations defend their interests.**

Each member State has its own submission practice. Workers' organizations will represent their members' interests concerning the implementation of the newly adopted instruments.

Governments will consult with the representative organizations of employers and workers where the [Tripartite Consultation \(International Labour Standards\) Convention, 1976 \(No. 144\)](#), has been ratified. Each State party to the Convention undertakes to operate procedures which ensure effective consultations between representatives of the government, of employers and of workers with respect to standards-related activities. These consultations have to be undertaken at appropriate intervals fixed by agreement, and at least once a year. The representatives of employers and workers have to be freely chosen by the most representative organizations. Under Article 5, paragraph 1(b), of Convention No. 144, ratifying States have an obligation to hold effective consultations on the submission of ILS to the competent national authorities. These organizations should have at their disposal sufficiently in advance all the necessary elements in order to reach their opinions before governments finalize their decisions related to the implementation of the recently adopted ILS.

## G: Governments submit newly adopted ILS to the competent authorities.

Governments submit new ILS to the competent national authorities for their consideration. The Governing Body has issued a [Memorandum concerning the obligation to submit conventions and recommendations to the competent authorities](#) to clarify the aims and objectives of submission, the nature of the obligation and how to fulfil it. A few points can be highlighted:

- the main aim of submission is to promote measures at the domestic level for the implementation of Conventions and Recommendations. In the case of Conventions, the procedure also aims to promote ratification;
- governments remain entirely free to propose any action which they may deem appropriate in respect of new ILS. The aim of submission is to encourage a rapid and responsible decision by each member State on instruments adopted by the International Labour Conference;
- one purpose of the obligation of submission, which is a fundamental element of the ILS system, is to bring the new instruments to the knowledge of the public;
- the competent national authority should normally be the legislature, since that is the authority in most countries able to “enact legislation”, as indicated in the ILO Constitution;
- the obligation of submission applies to all instruments adopted by the International Labour Conference, without exception or distinction, so also to Protocols; and
- fulfilment of the submission procedure is an important moment of dialogue among government authorities, social partners and parliamentarians.

Governments will consult with the representative organizations of employers and workers where the [Tripartite Consultation \(International Labour Standards\) Convention, 1976 \(No. 144\)](#), has been ratified. Each State party to the Convention undertakes to operate procedures which ensure effective consultations between representatives of the government, of employers and of workers with respect to standards-related activities. These consultations have to be undertaken at appropriate intervals fixed by agreement, and at least once a year. The representatives of employers and workers have to be freely chosen by their representative organizations. Under Article 5, paragraph 1(b), of Convention No. 144, ratifying States have an obligation to hold effective consultations on the submission of ILS to the competent national authorities.

Member States which have not ratified Convention No. 144 may refer to its relevant provisions as well as to those of the [Tripartite Consultation \(Activities of the International Labour Organisation\) Recommendation, 1976 \(No. 152\)](#).

## **E: Employers' organizations defend their interests.**

Each member State has its own submission practice. Employers' organizations will represent their members' interests concerning the implementation of the newly adopted instruments.

Governments will consult with the representative employers' and workers' organizations where the [Tripartite Consultation \(International Labour Standards\) Convention, 1976 \(No. 144\)](#), has been ratified. Each State party to the Convention undertakes to operate procedures which ensure effective consultations between representatives of the government, of employers and of workers with respect to standards-related activities. These consultations have to be undertaken at appropriate intervals fixed by agreement, and at least once a year. The representatives of employers and workers have to be freely chosen by their representative organizations. Under Article 5, paragraph 1(b), of Convention No. 144, ratifying States have an obligation to hold effective consultations on the submission of ILS to the competent national authorities. These organizations should have at their disposal sufficiently in advance all the necessary elements in order to reach their opinions before governments finalize their decisions related to the implementation of the recently adopted ILS.

## ▶ 3. Governments report on submission of new instruments

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### **I: Information on submission must be reported between 12 and 18 months following the adoption of new ILS.**

Within the limits set by [article 19 of the ILO Constitution](#), governments send information on submission to the Office ([NORM\\_REPORT@ilo.org](mailto:NORM_REPORT@ilo.org)) using the questionnaire provided for the purpose of obtaining information on the measures taken, which is available at the end of the [Memorandum](#) on submission. Governments are expected to send copies of the communication to the representative organizations of employers and workers, as prescribed by [article 23, paragraph 2, of the ILO Constitution](#).

According to the established practice, when it receives information on submission of instruments to the competent authorities, the Office checks if the relevant information and documents have been supplied, including replies to any comments of the CEACR or observations of the CAS on submission. If not, it will ask the government concerned to send what is missing. The substance of the information provided is examined by the relevant supervisory bodies.

## **W: Workers and their organizations participate in the supervision of the obligation to submit newly adopted ILS.**

Information on submission to the competent national authorities communicated to the Office is transmitted by the government to the representative organizations of employers and workers, as required by [article 23, paragraph 2, of the ILO Constitution](#). This fact – together with the names of the representative organizations of employers and workers to which the information has been transmitted and any observations received from them as to the effect given or to be given to the instruments submitted – should also be communicated by the government to the Office. This information is requested in the questionnaire included in the [Memorandum](#) of the Governing Body. Part VIII of the Memorandum and points VI and XI of the questionnaire are particularly relevant.

Employers, workers and their organizations participate in the supervision by the CAS of the compliance of the obligation to submit new instruments adopted by the International Labour Conference, when the “cases of serious failure by member States to respect their reporting and other standards-related obligations” under the ILO Constitution are discussed. The CAS identifies the cases for discussion on the basis of various criteria, including the absence of any indication as to whether steps have been taken to submit the instruments adopted during the last seven sessions of the International Labour Conference to the competent authorities, in accordance with [article 19 of the ILO Constitution](#).



## **G: Governments' reporting on submission is regularly supervised by the CEACR and the CAS.**

Information on submission sent by governments is received by the CEACR, which supervises compliance by member States with this obligation. Information on governments' submission of ILS to the competent authorities, their failure to submit and/or failure to report on submission is contained in the [CEACR report](#) which is available on the ILO website. Appendices IV, V and VI provide details on compliance with this Constitutional obligation. All [CEACR comments on submission](#) can be found in NORMLEX.

The CAS takes up for discussion the most serious cases of failure to respect reporting and other standards-related obligations, including those on submission to the competent national authorities. Governments concerned are invited to provide information and to explain the delays in submission at a dedicated sitting. The CAS [discussions and related conclusions](#) are available on the ILO website.

## **E: Employers and their organizations participate in the supervision of the obligation to submit newly adopted ILS.**

Information on submission to the competent national authorities communicated to the Office is transmitted to the representative organizations of employers and workers, as required by [article 23, paragraph 2, of the ILO Constitution](#). This fact – together with the names of the representative organizations of employers and workers to which the information has been transmitted and any observations received from them as to the effect given or to be given to the instruments submitted – should also be communicated by the government to the Office. This information is requested in the questionnaire included in the [Memorandum](#) of the Governing Body. Part VIII of the Memorandum and points VI and XI of the questionnaire are particularly relevant.

Employers, workers and their organizations are involved in the supervision by the CAS of the obligation to submit new instruments adopted by the International Labour Conference, when the “cases of serious failure by member States to respect their reporting and other standards-related obligations” under the ILO Constitution are discussed. The CAS identifies the cases for discussion on the basis of various criteria, including the following: no indication is available on whether steps have been taken to submit the instruments adopted during the last seven sessions of the International Labour Conference to the competent authorities, in accordance with [article 19 of the ILO Constitution](#).

# With reports on new ILS, on unratified Conventions and on Recommendations

## Article 19

Member States report on the consideration they give to implementing ILS that are newly adopted by the International Labour Conference, as well as those early adopted.

Member States give consideration to implementing ILS adopted by the International Labour Conference.

- ▶ When the Governing Body chooses Conventions and Recommendations on which reports are requested, with a view to preparing a General Survey.

## ► 1. The Governing Body chooses instruments

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### I: The Governing Body calls on member States to consider measures they take to implement Conventions they have not ratified and Recommendations.

[Article 19, paragraphs 5-7, of the ILO Constitution](#) authorizes the Governing Body to ask member States to report about the position of their law and practice in regard to the matters dealt with in unratified Conventions and in Recommendations. Member States are asked to show the extent to which effect has been given or is proposed to be given to any provisions of the selected instrument(s). In practice, a set of instruments on a particular subject matter is often selected by the Governing Body for reporting each year.

Reports – and the subsequent “General Survey” synthesizing and analysing the contents of these reports which is prepared by the CEACR – are helpful to promote ratification, induce countries to take a look at where they stand in relation to the ratification and implementation of instruments, including by giving effect to their contents even in the absence of ratification (also to provide due recognition of efforts undertaken), guide the implementation of the instruments, and evaluate the impact and relevance of ILS.



More information on General Surveys, which allow to clarify the scope of the instruments, to analyse the difficulties indicated by governments as impeding their application or ratification, and to identify means of overcoming these difficulties, is available in the [“Finding Aid on General Surveys”](#) of the ILO library.

The Governing Body usually makes its selection of instruments at its meeting in October/November, on the following basis:

- only a small number of instruments on a subject matter are selected to enable an in-depth examination of the selected instruments and not to overburden national administrations which have to prepare the reports; and
- the subjects chosen are of current interest.

## **W: The Workers' group provides its views in selecting the subject.**

The Workers' group in the Governing Body provides its views in the selection of Conventions and Recommendations for the preparation of an annual General Survey by the CEACR.

In accordance with the established practice, proposals are coordinated with other ILO processes, such as annual recurrent discussions in the International Labour Conference, by virtue of the follow-up to the [ILO Declaration on Social Justice for a Fair Globalization \(2008\)](#), of ILO strategic objectives, namely: fundamental principles and rights at work; employment; social protection; and social dialogue and tripartism.

## **G: Governments are involved in selecting the subject.**

In accordance with the established practice, the Office consults informally with constituents to determine subject areas on which they would like to see information from member States under [article 19 of the ILO Constitution](#). Governments are interested, for example, in better understanding the content of instruments and relevant national practices in other countries. Proposals are coordinated with other processes, such as annual recurrent discussions in the International Labour Conference, by virtue of the follow-up to the [ILO Declaration on Social Justice for a Fair Globalization \(2008\)](#), of ILO strategic objectives, namely: fundamental principles and rights at work; employment; social protection; and social dialogue and tripartism. [Proposals](#) before the Governing Body are available on the ILO website.

## **E: The Employers' group provides its views in selecting the subject.**

The Employers' group in the Governing Body provides its views in the selection of Conventions and Recommendations for the preparation of an annual General Survey by the CEACR.

In accordance with the established practice, proposals are coordinated with other ILO processes, such as annual recurrent discussions in the International Labour Conference, by virtue of the follow-up to the [ILO Declaration on Social Justice for a Fair Globalization \(2008\)](#), of ILO strategic objectives, namely: fundamental principles and rights at work; employment; social protection; and social dialogue and tripartism.

## ► 2. Governments prepare and send reports

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### **I: Law and practice are summarized in a report based on the report form approved by the Governing Body, which is sent to the Office.**

The Governing Body approves a form to be used by governments for reporting on the instruments previously selected under [article 19 of the ILO Constitution](#) for the preparation of a General Survey. This is usually done at its March session. The request for governments' reports is usually issued by the Office in September, and governments are requested to send their reports to the Office by 28 February the following year at the latest. The relevant report form is attached to the request. It also contains questions related to the impact of the instruments covered, the prospects of ratification and needs for technical assistance.

The [report forms](#) are available in the NORMLEX database, where it is also possible to see the lists of reports requested for General Surveys in the [country profiles](#).

Copies of the requests for reports are sent to the representative organizations of employers and workers.



## **W: Workers' organizations often promote implementation and ratification.**

The implementation of ILS affects workers directly. Through it, workers' organizations have the opportunity to call for improvements of rights and conditions at work. Workers' organizations thus assign high importance to their participation in the preparation of reports under [article 19 of the ILO Constitution](#).

In relation to the selected instruments, workers' organizations may also send their observations on the state of legislation and practice directly to the Office no later than 30 June each year. They are encouraged to do so by email ([ORGS-CEACR@ilo.org](mailto:ORGS-CEACR@ilo.org)).

## **G: Governments thoroughly consider policy, legislation and practice in the area involved.**

Preparation of a report under [article 19 of the ILO Constitution](#) affords governments the opportunity to consider closely their policies, laws and practices in relation to the selected instruments. Governments will consult with the representative organizations of employers and workers as recommended in Paragraph 5(e) of the [Tripartite Consultation \(Activities of the International Labour Organisation\) Recommendation, 1976 \(No. 152\)](#). Where a country has ratified the Convention(s) selected for the preparation of a General Survey, it will only provide information on the extent to which effect has been given to the Recommendation(s) that have been selected. The relevant report form normally indicates that it is not necessary to repeat information already provided in reports under [article 22 of the ILO Constitution](#) in connection with the ratified Convention(s).

Governments are expected to send copies of the report to the representative organizations of employers and workers, as required by [article 23, paragraph 2, of the ILO Constitution](#), as well as to the Office ([NORM\\_REPORT@ilo.org](mailto:NORM_REPORT@ilo.org)), in good time to meet the established due date.

The CEACR monitors compliance by ILO member States with the obligation to report on unratified Conventions and on Recommendations in its [annual report](#), which is available in the ILO website.

The CAS takes up for discussion the cases of serious failure to respect reporting obligations, including those under [article 19 of the ILO Constitution](#). Its [discussions and related conclusions](#) are available in the CAS report on the ILO website.

## **E: Employers' organizations consider options.**

The implementation of ILS affects employers directly. Through it, employers' organizations have the opportunity to call for improvements of national regulations and practices. Employers' organizations thus often assign high importance to their participation in the preparation of reports under [article 19 of the ILO Constitution](#).

In relation to the selected instruments, employers' organizations may also send their observations on the state of legislation and practice directly to the Office no later than 30 June each year. They are encouraged to do so by email ([ORGS-CEACR@ilo.org](mailto:ORGS-CEACR@ilo.org)).

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## **With reports on ratified Conventions**

### **Article 22**

Governments report on the measures they take to implement Conventions they have ratified.

## ► 1. Governments prepare and send reports

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### I: Reports on ratified Conventions are due every three or six years depending on the Convention.

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. Each year, around 2,000 reports on ratified Conventions are requested by the Office out of the more than 8,200 ratifications of Conventions and Protocols registered by 1 September 2021. All reports are the subject of examination by the CEACR during its session held in late November and early December each year. A system has been set up for managing this caseload by staggering requests for reports.

Reports are requested every three years for fundamental and governance Conventions and every six years for all other Conventions. However, reports on the application of ratified Conventions may be requested at shorter intervals, i.e. outside the usual reporting cycle. Countries are divided into three groups for requests on fundamental and governance Conventions (A-F, G-N and O-Z) and into six groups for requests on technical Conventions (A-B, C-F, G-K, L-N, O-S and T-Z), according to the alphabetical order of their names.

The system for requesting reports also groups Conventions dealing with the same subject area in the same reporting year. Thus, for example, reports on all working time Conventions are requested in the same year for any particular country. No reports are requested on Conventions which have been abrogated, Conventions which have been withdrawn, Conventions which have not entered into force, Conventions on the final Articles and shelved Conventions.

Shelved Conventions are Conventions which no longer appear to be up-to-date. Ratification of shelved Conventions is no longer encouraged and their publication in Office documents, studies and research papers has been discontinued. Shelving also means that reports on the application of these Conventions are no longer requested. However, the right to invoke provisions relating to representations under [article 24 of the ILO Constitution](#) and complaints under [article 26 of the ILO Constitution](#) has remained intact. Employers' and workers' organizations remain free to make comments in accordance with the regular supervisory procedures, and the CEACR to review these comments and to request, if appropriate, reports under [article 22 of the ILO Constitution](#). Finally, shelving has no impact on the status of these Conventions in the legal systems of the member States that have ratified them. In 1998, the Governing Body decided to shelve 25 Conventions and to defer the shelving of 10 Conventions. Since then, the International Labour Conference has abrogated or withdrawn a number of these instruments, while proposals to abrogate or withdraw the remaining shelved Conventions are gradually being reviewed by the [Standards Review Mechanism Tripartite Working Group](#).

The system makes it possible for all to know know [when reports on ratified ILO Conventions will be called for generally](#) and [from any particular member State](#).

Click to see a [glossary](#) of terms and jargon associated with reporting. To know more about the article 22 procedure, a [flowchart presentation](#) is also available.

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

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 ILS. Employers' and workers' organizations may make observations on the subject matter of the reports and on compliance with the obligations arising from ratified Conventions. Click to see a [checklist tool](#) helping social partners decide how to participate.

In some cases, 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 employers' and workers' organizations are sent directly to the Office which, in accordance with the established practice, transmits them to the governments concerned for comments, so as to ensure respect for due process.

Observations from employers' and workers' organizations sent directly to the Office should clearly indicate the intention to submit observations to the CEACR and should be signed. They should reach the Office no later than 1 September each year. Organizations are encouraged to send their observations by email ([ORGS-CEACR@ilo.org](mailto:ORGS-CEACR@ilo.org)).

For reasons of transparency, the CEACR keeps record in its annual report of observations by employers' and workers' organizations. Appendix III to its report lists all observations received from them on the application of ratified Conventions. It is also possible to see the list of "Observations made by employers' and workers' organizations (Art. 23)" in each country, in the NORMLEX database with [country profiles](#).

*Number of observations received from workers' organizations by year (since 2009)*



## **How the CEACR treats observations on ratified Conventions made by employers' and workers' organizations**

The CEACR systematically recalls that the contribution by employers' and workers' organizations is essential for its evaluation of the application of Conventions in national law and in practice and, in the context of the regular review of its working methods, has adopted a practice for treating observations from both employers' and workers' organizations.

Where the CEACR 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, taking the form of an observation or a direct request, as appropriate.

### **In a reporting year**

When observations are not provided with the government's report, they should be received by the Office by 1 September at the latest, so as to allow the government concerned to have a reasonable time to respond, thereby enabling the CEACR to examine the issues raised at its session the same year. When observations are received after, they would not be examined in substance in the absence of a reply from the government, except in exceptional cases, which are cases as those 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 CEACR 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 CEACR, 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. However, where the observations meet the above-mentioned criteria of exceptional cases, the CEACR 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 CEACR 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 CEACR 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.

## G: Governments provide reports requested by the Office on ratified Conventions. Reports are detailed or simplified.

Governments' very first reports on newly ratified Conventions need to be detailed. They need to respond to each and every question of a report form specifically developed for the particular Convention and approved by the Governing Body. The [report forms](#) set out the substantive provisions of the Conventions on which information has to be provided, and include specific questions as to some provisions. A [general commentary](#) on the structure and content of these report forms is available to the ILO constituents. Subsequent reports are simplified, providing information on any changes made to laws and practices in applying the ratified Convention. In order to further clarify the distinction between the two types of reports, and with a view to facilitating their submission, the Governing Body has recently approved a report form for simplified reports. Click to see the new [report form for simplified reports](#).

All reports, whether detailed or simplified, need to:

- indicate the employers' and workers' organizations to which copies of the reports have been addressed, as required by [article 23, paragraph 2, of the ILO Constitution](#);
- include the text of any observations made by employers' and workers' organizations, where these observations have not already been forwarded to the Office;
- include any comments that the government wishes to make on the observations received; and
- respond to any comments made by the supervisory bodies on the application of the Convention concerned.

The [reports requested from each country](#) from year to year are listed in the NORMLEX database, along with CEACR comments to which replies have to be provided.

Detailed reports also need to be provided where they are explicitly requested by the supervisory bodies or, at the initiative of the member State, if there have been significant changes in the application of a ratified Convention, such as the adoption of substantial new legislation.

All reports on ratified Conventions have to reach the Office each year between 1 June and 1 September at the latest. Governments are encouraged to send them by email ([NORM\\_REPORT@ilo.org](mailto:NORM_REPORT@ilo.org)) and can submit them in batches.

When it receives governments' reports, the Office checks to see whether they contain information and documents in reply to any comments of the CEACR or conclusions of the CAS. If they do not, without entering into the substance of the matter, the Office will draw the attention of the government concerned to the need for a reply. The Office also writes to governments concerned when reports are not accompanied by copies of relevant legislation, statistics or other documentation at issue and these are not otherwise available, and asks them to send such documentation. Reminders are sent to governments which do not transmit their reports on time.

Furthermore, according to a recently established practice, the CEACR issues "urgent appeals" to governments using the following criteria:

- failure to send reports for the third consecutive year;
- failure to reply to serious and urgent observations from employers' and workers' 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 CEACR on the basis of publicly available information, even if the government has not sent a report, thus ensuring a review of the application of ratified Conventions at least once within the regular reporting cycle.

Click to see a [flowchart tool](#) and a [checklist tool](#) which can help governments with the reporting obligation under [article 22 of the ILO Constitution](#), including when they need to follow up on conclusions of the CAS concerning Conventions they have ratified.



In the context of the Standards Initiative, the Governing Body has recently requested the Office to implement a pilot project for the establishment of baseline reports on the [Promotional Framework or Occupational Safety and Health Convention, 2006 \(No. 187\)](#), and a few other technical Conventions. This project aims, among other things, to facilitate the fulfilment of reporting obligations by member States and to achieve gains in terms of effectiveness, quality and efficiency.

## E: Employers' organizations can make observations on the way ratified Conventions are being applied.

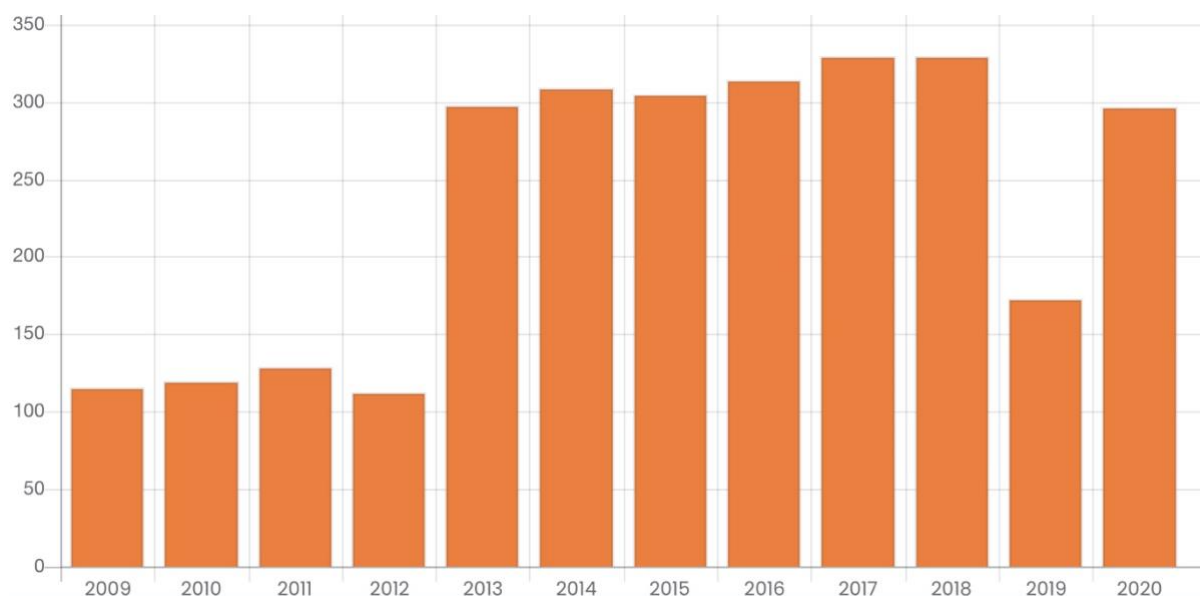
Under [article 23, paragraph 2, of the ILO Constitution](#) member States have the obligation to communicate to the representative organizations of employers and workers copies of the reports supplied to the Office. This obligation is intended to enable employers' and workers' organizations to participate fully in the supervision of the application of ILS. Employers' and workers' organizations may make observations on the subject matter of the reports and on compliance with the obligations arising from ratified Conventions. Click to see a [checklist tool](#) helping social partners decide how they will participate.

In some cases, 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 employers' and workers' organizations are sent directly to the Office which, in accordance with the established practice, transmits them to the governments concerned for comment, so as to ensure respect for due process.

Observations from employers' and workers' organizations sent directly to the Office should clearly indicate the intention to submit observations to the CEACR and should be signed. They should reach the Office no later than 1 September each year. Organizations are encouraged to send their observations by email ([ORGS-CEACR@ilo.org](mailto:ORGS-CEACR@ilo.org)).

For reasons of transparency, the CEACR keeps record in its annual report of observations by employers' and workers' organizations. Appendix III to its report lists all observations received from them on the application of ratified Conventions. It is also possible to see the list of "Observations made by employers' and workers' organizations (Art. 23)" in each country, in the NORMLEX database with [country profiles](#).

*Number of observations received from employers' organizations by year (since 2009)*



## **How the CEACR treats observations on ratified Conventions made by employers' and workers' organizations**

The CEACR systematically recalls that the contribution by employers' and workers' organizations is essential for its evaluation of the application of Conventions in national law and in practice and, in the context of the regular review of its working methods, has adopted a practice for treating observations from both employers' and workers' organizations.

Where the CEACR 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, taking the form of an observation or a direct request, as appropriate.

### **In a reporting year**

When observations are not provided with the government's report, they should be received by the Office by 1 September at the latest, so as to allow the government concerned to have a reasonable time to respond, thereby enabling the CEACR to examine the issues raised at its session the same year. When observations are received after, they would not be examined in substance in the absence of a reply from the government, except in exceptional cases, which are cases as those 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 CEACR 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 CEACR, 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. However, where the observations meet the above-mentioned criteria of exceptional cases the CEACR 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 CEACR 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 CEACR 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

## ► 2. The CEACR examines governments' reports and other information

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### I: Based on the examination of reports and other information, the CEACR makes comments to governments.

Each year the CEACR meets to discuss the application of ratified Conventions based on governments' reports, observations made by employers' and workers' organizations, and other information available to it.

The CEACR is an independent body established by the International Labour Conference in 1926 and its members are appointed by the Governing Body. Since 1979, it is composed of 20 members. The CEACR has progressively achieved broad gender parity and was composed in 2020 of 11 men and 9 women. Each geographical area is represented by five experts emanating from a broad range of legal systems. Click to see the [full list of CEACR members](#).

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#### Mandate

The CEACR is composed of legal experts charged with examining the application of Conventions and Recommendations by ILO member States. As indicated in its annual report, *"the Committee of Experts undertakes an impartial and technical analysis of how the Conventions are applied in law and practice by member States, while cognizant of different national realities and legal systems. In doing so, it must determine the legal scope, content and meaning of the provisions of the Conventions. Its opinions and recommendations are non-binding, being intended to guide the actions of national authorities. They derive their persuasive value from the legitimacy and rationality of the Committee's work based on its impartiality, experience and expertise. The Committee's technical role and moral authority is well recognized, particularly as it has been engaged in its supervisory task for more than 90 years, by virtue of its composition, independence and its working methods built on continuing dialogue with governments taking into account information provided by employers' and workers' organizations. This has been reflected in the incorporation of the Committee's opinions and recommendations in national legislation, international instruments and court decisions"* (1).

#### Established practice on the selection and appointment of members of the CEACR

The members of the CEACR are distinguished legal experts drawn from the world's various legal traditions, so as to give the CEACR the benefit of first-hand experience of different legal, economic and social systems. They are appointed by the Governing Body on the recommendation of its Officers, upon the proposal of the Director-General.

The criteria and procedure for appointment to the CEACR have enjoyed a degree of continuity, although the number of experts and the geographical balance they represented have evolved rapidly in response to the increasing workload of the CEACR and the diversification of ILO membership. The selection and appointment of CEACR members are based on a number of criteria and include the following, in no particular order of priority:

- knowledge and awareness of the ILO;
- academic and legal standing;
- expertise in labour law, human rights law and international law;

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<sup>1</sup> ILO: [Addendum to the 2020 Report of the Committee of Experts on the application of Conventions and Recommendations](#), Report III/Addendum (Part A), 2021, para. 43.

- ability to accept the essentially administrative nature of the work combined with intellectual incisiveness;
- ability to contribute within the different economic and cultural context of countries;
- sensitivity and openness to the views of ILO tripartite constituents;
- ability to influence or add a dimension to ILO work in the country in which they live;
- ability to operate within the CEACR, possessing the necessary personal qualities for the working environment, considering the international context of the work;
- gender balance within the CEACR; and
- linguistic abilities.

These selection criteria are in line with the established international practice followed for the selection of experts serving on [UN Human Rights Treaty Bodies](#).

- Treaty body members are **independent**, i.e. they serve in their personal capacity and are recognized as impartial.
- Treaty body members are **recognized experts in the field of human rights and/or the field covered by the treaty**.
- Treaty body members must be persons of **high moral character**.
- Due consideration should be given to **equitable geographical participation** in membership of the treaty bodies.
- Due consideration must also be given to ensuring **balanced gender representation** within each committee.

The selection criteria were fashioned with due regard to the particular nature of the CEACR and ILS. In the course of the adoption of the 1926 resolution, the Chairperson and Reporter of the Committee on Article 408 explained that the method of appointment of the members of the CEACR should be left to the Governing Body, but that they *“should essentially be persons chosen on the ground of expert qualifications and on no other ground whatever”* <sup>(2)</sup>. As a general rule, the experts tend to be selected among senior judges and academics.

The CEACR is expected to function in full independence, objectivity and impartiality <sup>(3)</sup>. From the very beginning, these principles were considered vital importance in ensuring that the Committee’s work enjoyed the highest authority and credibility and have been consistently upheld by the International Labour Conference and the Governing Body as the cornerstone of this Committee and the ILO supervisory system as a whole. Appointments to the CEACR have therefore always been made in a personal capacity of individuals who were recognized as impartial and had the required technical competence and independence. In order to safeguard this important attributes, the identification of suitable candidates has always been entrusted to the Director-General and the Office, since the Committee’s creation. The following selection process is implemented by the Office in a consistent and rigorous manner.

- As a first step, the Office proceeds with the identification of a pool of possible suitable candidates, based on the above-mentioned criteria, limited to eminent independent personalities of the highest technical calibre and moral integrity.
- Once sufficient information is gathered, the Office contacts the potential candidates and organizes interviews with those who express an interest.
- A summary of the interviews of all candidates is provided to the Director-General, who submits a report to the Officers of the Governing Body, with a commentary of each of the candidates interviewed.

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<sup>2</sup> *Record of proceedings*, International Labour Conference, Eighth Session, 1926, p. 239. The Office indicated that the members of the CEACR should “possess intimate knowledge of labour conditions and of the application of labour legislation. They should be persons of independent standing, and they should be so chosen as to represent as far as possible the varying degrees of industrial development and the variations of industrial method to be found among the States Members of the Organisation.”

<sup>3</sup> ILO: [Monitoring compliance with international labour standards: The key role of the ILO Committee of Experts on the Application of Conventions and Recommendations](#) (2019), page 23.

- After consideration of the report, the Officers of the Governing Body select a candidate whose appointment they will be proposed to the Governing Body.
- Experts are appointed by the Governing Body for a renewable term of three years. The tenure is limited to a total of 15 years, representing a three-year term renewable four times.

The Governing Body has established similar processes for the appointment of other independent members of supervisory bodies such as the Chairperson of the Committee on Freedom of Association and the members of Commissions of Inquiry.

To know more about the CEACR and its mandate, see the [dedicated page on the ILO website](#) and its [reports](#).

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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. 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 member States. They may address the absence of measures to give effect to a Convention or to take appropriate action following the requests by the CEACR. They may also highlight progress, as appropriate. Observations are reproduced in the [CEACR annual report](#), which is then considered by the CAS in June every year, and are available online in the NORMLEX database. 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 CEACR report, but are communicated directly to the government concerned and are available online in the NORMLEX database. At the end of its comments the CEACR indicates by 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 footnotes”) and, in some instances, to supply full particulars to the International Labour Conference at its next session (“double footnotes”). To know more about the comments of the CEACR, including the cases of progress where the CEACR expresses “satisfaction” or “interest” on specific issues related to the application of the ratified Conventions and the nature of the measures adopted by the governments concerned, see the [CEACR reports](#) (Part: General report) on the ILO website.

## W: Workers' organizations receive copies of CEACR comments made to governments.

As a natural consequence of its tripartite structure, the ILO was the first international organization to associate the social partners directly in its activities. 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.

In practice, representative employers' and workers' organizations may submit to their government's comments on the reports concerning the application of ILS. They may, for instance, draw attention to a discrepancy in law or practice regarding the application of a ratified Convention. Furthermore, any employers' or workers' organization may submit comments on the application of ILS directly to the Office. The Office will then forward these comments to the government concerned, which will have an opportunity to respond before the comments are examined by the CEACR, except in exceptional circumstances.

In accordance with the established practice, in March, representative organizations of employers and workers 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.

These organizations can:

- consider whether there are any Conventions on the application of which they will want to make observations to the CEACR in the course of the regular reporting cycle;
- determine if and how the CEACR has considered any of their comments on the application of the Convention submitted previously; and
- 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.

A [Handbook of procedures relating to international labour Conventions and Recommendations](#) describing the procedures operating within the ILO in relation to the adoption and implementation of ILS, including the contribution of any employers' and workers' organizations to the reporting system, is available in the ILO website. Click to see a [checklist tool](#) helping social partners to take action.

## G: Governments receive any comments made by the CEACR concerning the application of ratified Conventions.

In accordance with the established practice, between the end of February and the beginning of March governments receive the requests for reports on ratified Conventions due in the current year with the CEACR comments addressed to them and an explanatory note. A [Handbook of procedures relating to international labour Conventions and Recommendations](#) describing the procedures operating within the ILO in relation to the adoption and implementation of ILS is available in the ILO website. Its Appendix II contains the regular reporting cycle up to 2025. The NORMLEX database lays out the [regular reporting schedule](#) for each member State over a period of six years (i.e. the regular interval for reports on the application of technical Conventions).

The timeline below shows the Office practices and the government practices on reporting on ratified Conventions throughout a single year.

### February

#### ▶ Office

- The report of the CEACR is published and made available on the ILO website.
- Between the end of February and the beginning of March, the Office sends by email requests for (detailed/simplified) reports on ratified Conventions due that year to governments. The communication includes the comments by the supervisory bodies for each Convention and an explanatory note.

#### ▶ Member States

- The CEACR report is examined, also to prepare for discussion in the CAS.

### March

#### ▶ Office

- Between the end of February and the beginning of March, the Office sends by email requests for (detailed/simplified) reports on ratified Conventions due the current year to governments. The communication includes the comments by the supervisory bodies for each Convention and an explanatory note.
- In March, the Office sends by email copies of requests for reports on ratified Conventions due the current year to the representative organizations of employers and workers. The communication includes the comments by the supervisory bodies and a note concerning the contribution of employers' and workers' organizations to the supervision of the application of ILS.

#### ▶ Member States

- CEACR comments are studied, with a view to initiating measures needed to ensure compliance.
- States parties to Convention No. 144 hold effective consultations with the representative organizations of employers and workers on questions arising out of reports on ratified Conventions to be made.
- Reports on ratified Conventions are prepared and sent to reach the Office between 1 June and 1 September, at the latest. Reports can be sent in batches.



## April

### ▶ Member States

- CEACR comments are studied, with a view to initiating measures needed to ensure compliance.
- States parties to Convention No. 144 hold effective consultations with the representative organizations of employers and workers on questions arising out of reports on ratified Conventions to be made.
- Reports on ratified Conventions are prepared and sent to reach the Office between 1 June and 1 September, at the latest. Reports can be sent in batches.

## May

### ▶ Member States

- CEACR comments are studied, with a view to initiating measures needed to ensure compliance.
- States parties to Convention No. 144 hold effective consultations with the representative organizations of employers and workers on questions arising out of reports on ratified Conventions to be made.
- Reports on ratified Conventions are prepared and sent to reach the Office between 1 June and 1 September, at the latest. Reports can be sent in batches.
- Information is prepared for the CAS in writing or to be given orally, as appropriate.

## June

### ▶ Supervisory bodies

- The CAS meets and examines the report of the CEACR, the cases of serious failure to respect reporting and other standards-related obligations, and a selection of individual cases relating to the application of ratified Conventions on which the governments are invited to contribute details.

### ▶ Office

- The report of the CAS is published on the ILO website in the Provisional Record.

### ▶ Member States

- Participate in proceedings, in discussion of any cases concerning their own country selected for consideration and, as appropriate, in discussion of cases concerning other member States than their own.
- Reports on ratified Conventions due in the current year are sent to the Office.
- Copies of reports on ratified Conventions are communicated to the representative organizations of employers and workers.

## July

### ▶ Office

- The CAS report is published separately and made available in the ILO website.

### ▶ Member States

- The CAS report is examined to take into consideration all possible and necessary measures and, as appropriate, to follow up on the conclusions on individual cases. Information in this regard is provided in the reports.
- Reports on ratified Conventions due that year are sent to the Office.
- Copies of reports are communicated to the representative organizations of employers and workers.

## August

### ▶ Member States

- The CAS report is examined to take into consideration all possible and necessary measures and, as appropriate, to follow up on the conclusions of the CAS. Information in this regard is provided in the reports.
- Reports on ratified Conventions due that year are sent to the Office.
- Copies of reports are communicated to the representative organizations of employers and workers.

## September

### ▶ Office

- The Office checks that the reports contain all the replies, information and documentation requested. If they do not, the Office will, without entering into the substance of the matter, ask governments to send them.
- If the Office receives observations directly from employers' and workers' organizations, it acknowledges receipt and simultaneously forwards a copy to the government concerned, so that it might respond.

### ▶ Member States

- Additional information is sent to the Office, if so requested.

## October

### ▶ Member States

- Additional information is sent to the Office, if so requested.

## November

### ▶ Member States

- Additional information is sent to the Office, if so requested.

### ▶ Supervisory bodies

- The CEACR meets in late November and early December to adopt comments (observations and direct requests) and the report that will be submitted to the Governing Body the following year for transmission to the International Labour Conference.

## December

### ▶ Supervisory bodies

- The CEACR meets in late November and early December to adopt comments (observations and direct requests) and the report that will be submitted to the Governing Body the following year for transmission to the International Labour Conference.

## E: Employers' organizations receive copies of CEACR comments made to governments.

In accordance with the established practice, in March, representative organizations of employers and workers 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.

These organizations can:

- consider whether there are any Conventions on the application of which they will want to make observations to the CEACR during the reporting cycle of the current year;
- follow CEACR supervision of Conventions on which they have already provided observations; and
- consider the consultation on questions arising out of reports that is required under the [Tripartite Consultation \(International Labour Standards\) Convention, 1976 \(No. 144\)](#), where it has been ratified.

A [Handbook of procedures relating to international labour Conventions and Recommendations](#) describing the procedures operating within the ILO in relation to the adoption and implementation of ILS, including the contribution of any employers' and workers' organizations to the reporting system, is available in the ILO website. Click to see a [checklist tool](#) helping social partners to take action.

Click to find a [factsheet](#) explaining the relevance of the procedure for business. For more information, see also on the ILO website the [page with publications on ILS](#), where resources specifically developed for employers' organizations can be found.

## ▶ 3. The CEACR report is issued

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### I: The CEACR prepares a report on member States meeting obligations under ratified Conventions and the ILO Constitution.

The CEACR prepares an annual report, which is in the first place submitted to the Governing Body at its March session for transmission to the International Labour Conference in June. The [CEACR report](#) is published in February, and is made available in hard copy and in the ILO website.



The CEACR report is traditionally submitted to the International Labour Conference as “Report III”, i.e. the third standing item to be included by the Governing Body in the International Labour Conference agenda each year. As such, the report consists of two volumes. The first volume (Report III (Part A)) is divided into two parts:

- Part I: The General Report describes the progress of the **work of the CEACR** and specific matters relating to it that have been addressed, and the extent to which member States have fulfilled their **constitutional obligations** in relation to ILS;
- Part II: Observations concerning **particular countries** on the fulfilment of obligations in respect of the submission of reports, the application of ratified Conventions grouped by subject matter, and the obligation to submit instruments to the competent national authorities.

The second volume contains a **General Survey** (Report III (Part B)) in which the CEACR examines the state of the legislation and practice regarding a given number of Conventions and Recommendations, selected annually by the Governing Body. This examination covers all member States regardless of whether or not they have ratified the given Conventions. [General Surveys since 1985](#) are available in the ILO website.

The comments of the CEACR on the fulfilment by member States of their standards-related obligations that take the form of observations are published in the CEACR report which has, at the beginning, the indexes of comments by Convention and by country. The NORMLEX database includes both [observations and direct requests by the CEACR](#).

## **W: Workers' organizations examine the CEACR report and consider measures to promote the fulfilment of standards-related obligations.**

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.

## **G: Governments examine the CEACR report and consider measures to fulfil standards-related obligations.**

Governments examine the [CEACR annual report](#) and consider measures they can take to fulfil their standards-related obligations, i.e. 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. Governments study comments made by the CEACR on Conventions they have ratified. They check if the CEACR has asked that they supply full particulars to the International Labour Conference which takes place in June, as this will require prior preparation. They look at challenges observed by the CEACR in respecting reporting obligations and other standards-related obligations under the ILO Constitution.

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 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.

## **E: Employers' organizations examine the CEACR report and consider measures to promote the fulfilment of standards-related obligations.**

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

## ► 4. The CAS discusses the CEACR report and ILS application

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### I: A tripartite standing committee of the International Labour Conference is mandated to review member States' fulfilment of standards-related obligations and to report to the International Labour Conference.

The CAS, an essential component of the ILO supervisory system, examines each year the report of the CEACR. Following the technical and independent scrutiny of government reports and other information carried out by the CEACR, 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 ILS.

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#### Mandate

The CAS is a standing tripartite body of the International Labour Conference established in 1926. It is composed of hundreds of members among Government, Employer and Workers members and deputy members. Questions related to the composition of the CAS, the right to participate in its work and the voting procedure are regulated by [Part 4 of the Standing Orders of the International Labour Conference](#).

Each year, the CAS elects its Officers: a government Chairperson, two Vice-Chairpersons – one from the employers' group and one from the workers' group, and a government Reporter.

Pursuant to [article 10, paragraph 1, of the Standing Orders of the International Labour Conference](#), the CAS has to consider:

- compliance by Members with their obligations to communicate information and reports under articles 19, 22, 23 and 35 of the ILO Constitution;
- individual cases relating to the measures taken by Members to give effect to the Conventions to which they are parties;
- the law and practice of Members with regard to selected Conventions to which they are not parties and Recommendations, as chosen by the Governing Body (general survey).

As required by [article 10, paragraph 4, of the Standing Orders of the International Labour Conference](#), the CAS submits a report to the International Labour Conference.

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In accordance with the established practice, the CAS:

- discusses the general aspects of the application of ILS and the discharge by member States of standards-related obligations under the ILO Constitution, primarily based on the General Report of the CEACR;
- discusses the General Survey prepared by the CEACR;
- examines cases of serious failure to fulfil reporting and other stands-related obligations; and
- examines 24 individual cases relating to the application of ratified Conventions.

The individual cases are selected on the basis of the observations published in the CEACR report submitted to the International Labour Conference.



A preliminary list of around 40 individual cases for possible discussion (also known as “longlist”) is made available at least 30 days before the opening of the International Labour Conference. This practice responds to a request from governments for early notification, so that they may better prepare themselves for a possible intervention before the CAS. Following changes introduced in 2019, governments on the preliminary list of individual cases are given the opportunity to submit new written information on a voluntary basis. This information should concern only new developments not yet examined by the CEACR. They must be transmitted in one of the three working languages of the Office at least two weeks before the beginning of the opening of the session of the International Labour Conference and shall not exceed three pages.

The final list of individual cases is submitted to the CAS, after the Employers’ and Workers’ groups have met to discuss and finalize it. The list is adopted at the beginning of the CAS work, ideally no later than its second sitting. Since 2007, it has been the practice to follow the adoption of the list of individual cases with an informal information session for governments, hosted by the Employer and Worker Vice-Chairpersons, to explain the criteria used for the selection of individual cases.

The conclusions regarding individual cases are proposed by the Vice-Chairpersons and submitted by the Chairperson to the CAS for adoption. The conclusions are made visible on a screen and at the same time a hard copy of these conclusions is provided to the government representative concerned in one of the three working languages, chosen by the government. The government representatives may take the floor after the Chairperson has announced the adoption of the conclusions.

To know more about the criteria for the selection of individual cases, see document “C.App./D.1: Work of the Committee”, which is available in the ILO website, in the pages dedicated to the International Labour Conference, and is appended to the CAS reports.



The CAS report is submitted for discussion by the International Labour Conference in plenary and adopted. It is then published on the ILO website in the [Record of proceedings](#). A [separate publication](#) in a more attractive format brings together the usual three parts of the work of the CAS. The publication is structured in the following way:

- the General Report of the CAS;
- the report of the CAS on the observations and information concerning particular countries, which also reproduces the observations of the CEACR concerning the individual cases, in order to facilitate the reading of the CAS discussion on them; and
- the report of the CAS: submission, discussion and approval.

Following changes introduced in June 2019, the report of the CAS is published as a verbatim record and no longer summarizes the discussion.

To know more about the [CAS](#), see the dedicated page on the ILO website, and a [detailed presentation](#) about its work.

## **W: The Workers' group pursues discussion on matters of interest in the CAS.**

The Vice-Chairperson of the CAS representing the Workers' group normally voices the concerns of the group, followed by statements by workers' members and/or observers from workers' organizations.

The Worker's group benefits from its study of the CEACR report, which is the basis of work in the CAS. The [Bureau for Workers' Activities \(ACTRAV\)](#) supports the Workers' group in the CAS.

Click to see a [checklist tool](#) helping social partners to consider possible actions.

## G: Governments provide particulars on meeting their obligations to the CAS, as requested.

Since governments are the actors required to meet standards-related obligations under the ILO Constitution – such as reporting and giving effect to ratified Conventions – their actions are the subject of most discussion in the CAS. A government member delegate to the International Labour Conference is elected – usually by unanimous consent – by the members of the CAS as Chairperson, and another government member is elected as Reporter.

Unlike the Employers' and Workers' groups in the CAS, government members do not form a group with the function of coordinating positions on matters discussed in the CAS. There are, however, several regional or sub-regional groupings choosing to express through individual spokespersons unified positions on matters before the CAS. Just like the Employers' and Workers' groups within the CAS, this type of coordination helps streamline work, making it easier to reach consensus or come to conclusions on matters.

At the beginning of the CAS work, the list of 24 individual cases to be discussed is adopted. In accordance with the established practice, it is comprised of cases selected by the Employers' and Workers' groups taking into consideration a wide range of criteria, amongst them the nature of the comments of the CEACR, in particular the existence of a footnote.

The governments addressed by the observations in the approved list have the opportunity to submit written information to the CAS, which is summarized by the Office and made available to the CAS. These written submissions serve to complement, not to duplicate or substitute, the particulars to be orally provided by the government before the CAS. They are to be provided to the Office at least two days before the discussion of the case, and the document should not exceed five pages.

Cases included in the final list are automatically registered and scheduled by the Office, on the basis of a rotating system, following the French alphabetical order. Cases are divided into two groups: the first group of countries consists of the "double-footnoted cases", i.e. the cases on which the CEACR has requested the governments to supply information to the International Labour Conference, then the other cases follow.

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 the other government, workers' and employers' members of the CAS. A summary of the governments' statements and the ensuing discussion is reproduced in the Appendix to the CAS report to the International Labour Conference.

On each individual case, the CAS may issue conclusions. The conclusions, which reflect consensus recommendations, are proposed by the Vice-Chairpersons and submitted by the Chairperson to the CAS for adoption. The conclusions specify the action expected of governments. They may include reference to direct contacts or other types of missions, as well as to technical assistance to be provided by the Office. The CAS may also request governments to submit additional information or address specific concerns in their next reports to the CEACR. Conclusions on the cases discussed are adopted at dedicated sittings. The government representatives concerned are informed of the sitting for the adoption of the conclusions concerning their country and may take the floor after the Chairperson has announced the adoption of the conclusions.

During the International Labour Conference the [work of the CAS](#) is followed day to day through the *Daily Bulletin* and the webpage of the CAS.

## **E: The Employers' group pursues discussion of matters of interest in the CAS.**

The Vice-Chairperson of the CAS representing the Employers' group normally voices the concerns of the group, followed by statements by employers' members.

The Employers' group benefits from its study of the CEACR report, which is the basis of work in the CAS. The [Bureau for Employers' Activities \(ACT/EMP\)](#) supports the Employers' group in the CAS.

Click to see a [checklist tool](#) helping social partners to consider possible actions.

Click to find a [factsheet](#) explaining the relevance of this step of the procedure for business. For more information, see also on the ILO website the [page with publications on ILS](#), where resources specifically developed for employers' organizations can be found.

## ► 5. The International Labour Conference discusses and adopts the CAS report

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**I: The full International Labour Conference discusses CAS report, highlighting most important developments, and adopts it. The CEACR examines the follow-up to the conclusions.**

The comprehensive CAS report is submitted to the International Labour Conference, where it is presented and discussed in plenary sitting in its closing days by the Reporter of the CAS. The two Vice-Chairpersons and the Chairperson make statements, following which delegates may make brief remarks on the report presented to the plenary. The Government, Employers' and Workers' delegates thus have a final opportunity to present their perspective on standards-related obligations as well as the individual cases taken up in the CAS. The conclusions of the CAS – including conclusions in selected cases of particular importance set out in special paragraphs in “Part One” (General Report) of the CAS report – are normally adopted by the International Labour Conference in plenary. The CAS report and a record of the discussion in plenary is published on the ILO website in the [Record of proceedings](#) of the International Labour Conference.

In accordance with the established dialogue between the CAS and the CEACR, the latter examines the follow-up to the conclusions of the CAS on individual cases on the application of ratified Conventions.

## **W: The Workers' group pursues discussion on matters of interest in plenary.**

The Vice-Chairperson of the CAS representing the Workers' group provides highlights of the proceedings in the CAS from the perspective of the group. Comments may be made, among other things, on individual cases that were discussed in the CAS, as well as cases that the Workers' group would have liked to have had included among the cases discussed in the CAS. Broader standards-related issues may also be the subject of the workers' statements. Other Workers' delegates speaking on their own behalf may intervene prior to the adoption of the CAS report. Statements are sometimes directed to the government of the Workers' delegate who is speaking, they may also be directed to other governments, the Employers' group, or the Office. Statements are often made with a view to the follow-up to be given to the supervisory work in the International Labour Conference, by the CEACR and through other supervisory mechanisms.

Click to see a [checklist tool](#) helping social partners to consider possible actions before and during the International Labour Conference.

## **G: Governments discuss most important developments and give further information in plenary.**

Government delegates to the International Labour Conference are free to intervene during discussion of the CAS report in the plenary session of the International Labour Conference. Their statements will be on behalf of their own government, and may as well be on behalf of other governments that have previously agreed to such an arrangement. Governments' interventions often amplify or complement statements made or positions taken in the CAS, for example, on information provided in respect of an individual case. Interventions may address broader standards-related issues, such as reporting obligations or giving effect generally to particular Conventions.

The plenary offers governments a wider forum in which to express their views and attempt to influence listeners and readers. Since governments' actions are the subject of most discussion in the CAS and the International Labour Conference plenary, great care is often taken in the preparation and presentation of statements made in plenary.

The standards-related work from the tripartite International Labour Conference meeting in June is passed on to the CEACR. Governments are thus often interested in reviewing as soon as possible the CAS report and a record of the discussion in plenary, both of which are published on the ILO website in the [Record of proceedings](#) of the International Labour Conference. Click to see a [checklist tool](#) helping governments that have been called to provide information on an individual case on the application of a ratified Convention in the International Labour Conference.

## **E: The Employers' group pursues discussion of matters of interest in plenary.**

The Vice-Chairperson of the CAS representing the Employers' group provides highlights of the proceedings in the CAS from the perspective of the group. Comments may be made, among other things, on individual cases that were discussed in the CAS, as well as cases that the Employers' group would have liked to have had included among the cases discussed in the CAS. Broader standards-related issues may also be the subject of the employers' statements. Other Employers' delegates speaking on their own behalf may intervene prior to the adoption of the CAS report. Statements are sometimes directed to the government of the Employers' delegate speaking, they may also be directed to other governments, the Workers' group, or the Office. Statements are often made with a view to the follow-up to be given to the supervisory work in the International Labour Conference, by the CEACR and through other supervisory mechanisms.

Click to see a [checklist tool](#) helping social partners to consider possible actions before and during the International Labour Conference.





# Special procedures

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International labour standards (ILS) are backed by a unique supervisory system comprised of independent legal experts and tripartite bodies

**The special procedures enable constituents to raise with the ILO alleged shortcomings in the manner States give effect to ILS or realize the fundamental principles of the ILO.**

# With representations and complaints on ratified Conventions Articles 24 and 26

ILO constituents are able to bring allegations of inadequate observance of Conventions that have been ratified.

▶ **Article 24**

When employers' or workers' organizations make a representation to the Office that a member State has not observed a ratified Convention.

## ▶ 1. The representation by employers' or workers' organizations is made

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### I: A representation can be made about ineffective observance of any ratified Convention.

[Article 24 of the ILO Constitution](#) permits “an industrial association of employers or workers” to make a representation to the Office alleging that any member State has failed to give effect to any Convention to which it is a party.

The member State must be bound by ratification to the Convention to which the allegation refers. This does not mean that the allegations must concern a State that is presently a member of the ILO as by virtue of [article 1, paragraph 5, of the ILO Constitution](#), the withdrawal from the Organization shall not affect the continued validity of obligations under ratified Conventions.

[Standing Orders concerning the procedure for examination of representations under articles 24 and 25 of the ILO Constitution](#) have been adopted by the Governing Body. Together with the Introductory Note, they set down the procedure followed in treating representations.

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### New measures concerning the representation procedure

In 2018, the Governing Body took a range of measures to strengthen the effectiveness and transparency of the representation procedure.

- Firstly, optional voluntary conciliation at the national level based on the agreement of the complainant and the agreement of the government, leading to a temporary suspension for a maximum period of six months of the examination of the merits of a representation. While the representation procedure does not require prior exhaustion of national remedies, efforts to reach conciliation at the national level could facilitate a resolution of the dispute at an early stage.
- Secondly, members of ad hoc tripartite committees established to examine representations need to receive all information and relevant documents from the Office 15 days in advance of their meetings and members of the Governing Body should receive the final report of the ad hoc tripartite committees three days before they are called to adopt their conclusions.
- Thirdly, the CFA will henceforth examine representations referred to it on freedom of association and collective bargaining matters by setting up ad hoc tripartite committees among its members in line with the procedures set out in the Standing Orders of the Governing Body for the examination of article 24 representations.
- Fourth, all necessary measures will be taken to protect committee members from undue interference.

The Governing Body will review all the above measures after a two-year trial period.

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For more information, see on the ILO website the [overview of the representation procedure, articles 24 and 25 of the ILO Constitution](#), and the [list of representations actually made](#). To know more about the article 24 procedure, a [flowchart presentation](#) is also available.

## **W: Employers' or workers' organizations can make a representation.**

Employers' or workers' organizations may make an allegation against any State, provided the State is a party to the Convention alleged to be ineffectively observed. Many ratified Conventions may be cited in one representation, provided the allegation of ineffective observance is substantiated.

According to the [Standing Orders](#), 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 and have made allegations against a State other than the one in which they are established, operate or have membership. Follow this link to see an [example](#). Organizations do not need to demonstrate a connection to and harm from the ineffective observance alleged in the representation.

Individuals or groups are not allowed to submit representations directly.

The [electronic form](#) for the submission of a representation, recently approved by the Governing Body, is available in the ILO website. It covers the conditions of receivability and other information, such as those on voluntary conciliation or other measures that can be explored at the national level.

For further support in preparing representations, workers' organizations can contact the [Bureau for Workers' Activities \(ACTRAV\)](#).

## **E: Employers' or workers' organizations can make a representation.**

Employers' or workers' organizations may make an allegation against any State, provided the State is a party to the Convention alleged to be ineffectively observed. Many ratified Conventions may be cited in one representation, provided the allegation of ineffective observance is substantiated.

According to the [Standing Orders](#), 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.

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Individuals or groups are not allowed to submit representations directly.

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For further support in preparing representations, employers' organizations can contact the [Bureau for Employers' Activities \(ACT/EMP\)](#). For more information, see also on the ILO website the [page with publications on ILS](#), where resources specifically developed for employers' organizations can be found.

## ▶ 2. The representation is received and brought before the Governing Body for decision on receivability

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### **I: A representation is received by the Office to be conveyed on to the Governing Body to determine receivability.**

The Director-General acknowledges receipt of the representation to the organization which made it and informs the government against which the representation is made. The government is also informed that the Governing Body will examine 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 shall not enter into a discussion of the substance of the representation. Article 2 of the [Standing Orders](#) provides further details.

## ▶ 3. The Governing Body refers to an ad hoc tripartite committee or the CFA

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### I: If found to be receivable, the Governing Body refers the matter for examination.

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:

- if the representation is receivable, 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 [CFA](#) for examination in accordance with the modalities set out for representations;
- 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. Click to see an [example](#).

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

## **W: The complainant organization is informed of the Governing Body decisions on receivability and referral.**

If the Governing Body decides that the representation is not receivable, a letter informing the complainant organization of the decision will be sent by the Office.

If the Governing Body decides that the representation is receivable and establishes an *ad hoc* committee, the decision will be communicated to the complainant organization, which will also be informed of the members of the *ad hoc* committee and the fact that any additional information on the representation submitted by the organization will be transmitted to the government concerned which will be invited to reply. The complainant organization will be informed also if the representation has been referred to the [CFA](#) or if a decision on referral has been postponed subject to follow-up on previous comments by the [CEACR](#).

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, for examination in accordance with the modalities set out for representations. The complainant organization will be informed accordingly.



## G: The government concerned is informed of the Governing Body decision on receivability and referral.

If the government concerned is not represented in the Governing Body, it will be invited to send a representative to take part in deliberations on receivability. If an *ad hoc* tripartite committee is ultimately set up and reports to the Governing Body on the substance of the representation, the government will likewise be invited to send a representative to take part in proceedings.

If the Governing Body decides that the representation is not receivable, a letter informing the government of the decision will be sent by the Office.

If the Governing Body decides that the representation is receivable and establishes an *ad hoc* committee, the decision will be communicated to the government, which will also be informed of the members of the *ad hoc* committee and be invited to submit any observations it wishes to make on the representation within the time-frame fixed. The government may ask the *ad hoc* committee for an extension of the deadline for its reply. In doing so, it should give a justification for the request.

The government will be informed accordingly if the representation has been referred to the [CFA](#) or if a decision on referral has been postponed subject to follow-up on previous comments by the [CEACR](#).

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, for examination in accordance with the modalities set out for representations. The government will be informed accordingly.

## **E: The complainant organization is informed of the Governing Body decisions on receivability and referral.**

If the Governing Body decides that the representation is not receivable, a letter informing the complainant organization of the decision will be sent by the Office.

If the Governing Body decides that the representation is receivable and establishes an *ad hoc* committee, the decision will be communicated to the complainant organization, which will also be informed of the members of the *ad hoc* committee and the fact that any additional information on the representation submitted by the organization will be transmitted to the government concerned which will be invited to reply. The complainant organization will be informed also if the representation has been referred to the [CFA](#) or if a decision on referral has been postponed subject to follow-up on previous comments by the [CEACR](#).

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, for examination in accordance with the modalities set out for representations. The complainant organization will be informed accordingly.

## ▶ 4. The ad hoc tripartite committee examines, considering voluntary conciliation

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**I: The ad hoc tripartite committee examines the substance of the representation, with the possibility to suspend the procedure if the parties agree to optional voluntary conciliation, and reports back to the Governing Body.**

The representation is examined by an ad hoc tripartite committee, if the Governing Body has established one for that purpose. 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 [Standing Orders](#) set out, among other things, the powers of the tripartite committee during its examination of the representation, essentially for communicating with the complainant organization and the government against which the representation is made.

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

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](#).

The Governing Body has recently decided that 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 will be subject to the agreement of the complainant organization, as expressed in the [electronic form](#) for the submission of a representation, and of the government.

A report on the examination of the representation by the *ad hoc* committee will be prepared for the Governing Body. It will contain 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. Prior to the 2000s, where the government's response was not considered satisfactory, the Governing Body was entitled to publish the representation and the response. Over recent years, the reports of the ad hoc tripartite committees have been systematically made available to the public in the ILO website. It is possible to search in the [NORMLEX database](#) for the exact phrase "Report of the Committee set up to examine the representation" to find examples of these reports.

## **W: The complainant organization normally provides information.**

The workers' organization that has made the representation will furnish further information to the *ad hoc* tripartite committee if it is asked to do so, within the time fixed by the committee. The complainant organization may also do so on its own initiative but this will most probably have an impact on the deadlines within which the representation will be examined. A representative of the complainant organization may also on rare occasions be invited by the *ad hoc* committee to furnish information orally.

## **G: The government concerned responds appropriately to communications from the ad hoc tripartite committee.**

When communicating the positive decision on the receivability of a representation to the government against which it is made, the Governing Body invites the government to provide observations on the representation. The *ad hoc* committee may ask the government for further information if it so chooses, and fix a time for its receipt.

The government may provide information in writing, ask that its representative be heard by the committee, or request that a representative of the Director-General visits the country to obtain information on the subject of the representation for presentation to the committee.

The government may also agree on the suspension of the procedure for exploring conciliation of the matter raised by the representation.

## **E: The complainant organization normally provides information.**

The employers' organization that has made the representation will furnish further information to the *ad hoc* tripartite committee if it is asked to do so, within the time fixed by the committee. The complainant organization may also do so on its own initiative but this will most probably have an impact on the deadlines within which the representation will be examined. A representative of the complainant organization may also on rare occasions be invited by the *ad hoc* committee to furnish information orally.

## ▶ 5. The CFA examines the representation

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### I: The CFA examines the representation relating to a ratified Convention concerning freedom of association and collective bargaining.

The representation that relates to a ratified Convention dealing with freedom of association and collective bargaining is examined by the CFA in accordance with the procedure for the examination of representations once it has been referred by the Governing Body. The matter is treated by an *ad hoc* committee of three CFA members, with one member from each group.

Subject to the agreement of the complainant organization and of the government, 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 *ad hoc* committee in the CFA examines the merits of the representation in separate meetings. The entire case file is made available to the members of the CFA *ad hoc* committee and they can meet as many times as considered necessary for the conclusion of their work. Where allegations of non-observance of other Conventions are raised in the same representation, avenues are explored for ensuring effective communication between the two committees where appropriate.

The report as finalized by the three members is presented as a separate report to the Governing Body for approval. It is considered along with all other article 24 reports at the end of the Governing Body session.

## ▶ 6. Follow-up of the representation through regular supervision

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### **I: The CEACR normally follows up on recommendations made by the ad hoc tripartite committee, as adopted by the Governing Body.**

Once the report of the *ad hoc* tripartite committee has been adopted by the Governing Body, usually at the end of its session, it is notified to the government concerned and the complainant organization, and the procedure is closed. The report is published in the [Official Bulletin](#) and on the ILO website, in the pages concerning the relevant session of the [Governing Body](#).

In the context of the Standards Initiative, the Governing Body has recently asked for a regularly updated document on the effect given to the recommendations of the *ad hoc* committees in order to strengthen their follow-up.

The measures taken by governments pursuant to the recommendations of the *ad hoc* tripartite committee are examined through regular supervision. 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. Click to know more about the [regular supervisory machinery](#).



## ▶ Hourglass

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**The duration of a representation procedure depends on the timing of its start, the periodicity of Governing Body meetings, decisions taken by the Governing Body, and cooperation of the complainant organization and the government concerned.**

The Governing Body takes decisions only during its meetings in March, June and November on the receivability of a representation, its possible referral to a committee for examination, and the report on its substance. Any committee to which a representation is referred meets only during Governing Body meetings. Expeditious treatment of a representation thus depends on whether there is sufficient time to prepare matters for these meetings, notifications and transmissions of parties' information and observations. In practice, most often the procedure involves two or three meetings of the *ad hoc* tripartite committee over two, not necessarily consecutive, sessions of the Governing Body.

The average duration of representation procedures between 1990 and 2016 has been approximately 20 months.

# With representations and complaints on ratified Conventions

## Articles 24 and 26

ILO constituents are able to bring allegations of inadequate observance of Conventions that have been ratified.

▶ **Article 26**

When ratifying member States or delegates to the International Labour Conference file a complaint with the Office alleging that a member State has not observed a ratified Convention. The Governing Body considers appropriate action to secure the observance of the ratified Convention and may at any time decide, also of its own motion, to establish a Commission of Inquiry to consider the complaint and to report thereon.

## ▶ 1. The complaint alleging non-observance is filed

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### I: A complaint can be filed about ineffective observance of any ratified Convention.

[Article 26 of the ILO Constitution](#) permits a complaint to be filed by a member State with the Office where it is alleged that another member State is not effectively observing a Convention which both have ratified. A complaint can also be made by a delegate to the International Labour Conference.

[Articles 26 to 29 and 31 to 34 of the ILO Constitution](#) govern the procedure, giving the Governing Body the authority to consider the complaint and the choice of communicating with the member State which is the subject of the complaint.

At any time, either on receipt of a complaint or of its own motion, the Governing Body may decide to establish a Commission of Inquiry to consider the complaint and to report thereon. No further Standing Orders restrict the discretion of the Governing Body with respect to the time, form or substance in which it wishes to consider a complaint.

In practice, establishing a COI is the highest-level investigative procedure, considered as a remedial measure of last resort. See the box below on the nature of the procedure and the manner in which it is practically used.

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#### Nature of the procedure

Over a period spanning 85 years (1934 – 2019) since the first complaint was submitted, the Governing Body has had before it 34 article 26 complaints. All but three complaints, including all complaints submitted in the last 40 years, alleged non-observance of at least one fundamental Convention.

Of these, 33 complaint procedures have been closed either as result of a Governing Body decision or the adoption of recommendations by a Commission of Inquiry. In one case, the complaint procedure is still ongoing.

A total of 13 Commissions of Inquiry have been established and delivered reports over time. This represents less than half of the article 26 complaints filed. In all cases the regular supervisory bodies have followed up on the recommendations of the Commission of Inquiry. In respect of the complaints which have been closed without investigation by a COI, the Governing Body has requested the regular supervisory bodies to follow up on the issues raised in the complaint.

Recourse to the complaint procedure has evolved over time. The first complaints featured individual member States seeking to resolve bilateral disputes over the observance of an ILO Convention that was not always the subject of extensive prior examination by the regular supervisory bodies. In recent decades, the procedure is more readily used by Employers' and Workers' delegates to raise cases of non-observance already examined by other supervisory bodies, but serious enough to warrant the close multilateral attention and legally binding determination afforded by the procedure.

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In the absence of Standing Orders, no other receivability criteria than those apparent in [article 26 of the ILO Constitution](#) need to be met for the Governing Body to initiate its consideration of the complaint, i.e.:

- the complaint must be filed with the Office by a member State which has ratified the Convention that is the subject of the complaint or by a delegate to the International Labour Conference;
- the member State against which the complaint is filed must have ratified the Convention that is the subject of the complaint;
- the complaint must provide an indication that the complainant "is not satisfied" that the member State against which the complaint is filed is "securing the effective observance" of a Convention it has ratified.

The Officers of the Governing Body determine the steps in the procedure for complaints on an *ad hoc* basis. In some cases, and particularly in recent times, this has afforded flexibility in charting an effective approach in pursuing a consensual and comprehensive response, combining normative guidance with technical support, to an alleged violation while securing the observance of ratified ILS without the establishment of a COI.

While decisions on the possible referral to a COI were taken rather rapidly in earlier decades, it appears that, in recent years, the Governing Body has taken a more active role in considering, as a first step, whether interim measures, such as high-level missions, direct contacts, conclusion of tripartite agreements, technical cooperation agreements or other MoUs would enable the resolution of the issues raised in the complaint before making a decision on the appointment of a COI. For example, progress reached through such *interim* measures in the cases of [Bahrain](#), [Fiji](#) and [Qatar](#) resulted in the closure of the respective complaints without the establishment of a COI.

The *interim* measures are not as such sanctioned by the ILO Constitution, but derive their legitimacy from the discretion afforded to the Governing Body by its article 26 to either establish a COI or close the complaint procedure without establishing a COI. As such, *interim* measures should rest on consensus as the established decision-making practice in the Governing Body.

The same flexibility has also generated a level of uncertainty with respect to the procedure, in particular as regards boundaries to the Governing Body's discretion to defer a decision to establish a COI.

In regard of the first complaints, the Governing Body decided to appoint a COI without discussion, suggesting such decision was perceived to result automatically from the receivability of a complaint submitted. Gradually, the decision to establish a COI has been based on information provided by the complainants as well as ILO constituents. This process of information exchange has sometimes deferred the decision to appoint a COI for several years, or indeed led to a decision to close the complaint procedure without the appointment of a COI.

To know more about the article 26 procedure, a [flowchart presentation](#) is also available.

## **W: Any government, employers' or workers' members can file a complaint while they are delegates at the International Labour Conference.**

Any delegate to the International Labour Conference can file a complaint. This gives delegates representing employers and workers – as well as delegates representing governments, whether their countries have ratified the relevant Conventions or not – the opportunity to allege non-observance. According to the established practice, the complaint is read out by the delegate(s) during the plenary of the International Labour Conference.

The Governing Body then decides how to handle the complaint.

To date, the procedure has been initiated by each of the parties authorized by the ILO Constitution, although the majority of complaints have been filed by workers' or employers' delegates.

## **G: Any government, employers' or workers' members can file a complaint while they are delegates at the International Labour Conference.**

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The Governing Body then decides how to handle the complaint.

To date, the procedure has been initiated by each of the parties authorized by the ILO Constitution, although the majority of complaints have been filed by workers' or employers' delegates.

For more information, see on the ILO website the [page with publications on ILS](#), where resources specifically developed for employers' organizations can be found.

## ▶ 2. The Office receives the complaint by member States

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### I: The Office receives the complaint by a member State.

The ILO Constitution provides that a complaint by a member State against another ratifying member State is filed with the Office as the secretariat of the Organization .

The Office brings the complaint before its Governing Body so that its receivability may be considered.



## ▶ 3. The Governing Body may refer the complaint to a COI

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### I: The Governing Body has latitude in deciding how a complaint will be treated.

Once the Governing Body has determined the receivability of the complaint, it may decide to communicate the complaint to the government concerned and invite it to make a statement on the subject as it may think fit. Click to see an [example](#) of a complaint which was subsequently closed.

The Governing Body may decide to form a COI consisting of independent members, tasked to carry out a full investigation on the complaint and report thereon. According to the established practice, the COI consists of three members appointed by the Governing Body at the proposal of the Director-General. Appointments are made considering their impartiality, integrity and standing. The parties play no role in the appointments. Members serve as individuals in their personal capacity.

The COI will ascertain all the facts of the case and make recommendations on measures to be taken to address the problems raised by the complaint. A COI is the highest-level investigative procedure. It is typically set up when a member State is accused of committing persistent and serious violations and has repeatedly refused to address them. In practice, the Governing Body does not automatically decide to establish a COI. To date, out of 34 complaints submitted, only 13 COI have been set up.

The question of the composition of COI is not regulated in the ILO Constitution. As a matter of practice, however, all COI so far established were composed of three members.

The members of the COI are selected among eminent personalities who serve in an individual and personal capacity. They may be judges or former judges of the International Court of Justice, members of the Permanent Court of Arbitration, former judges of higher-level national courts, professors of international law, labour law or human rights law, former senior UN officials and former senior ILO officials. They are appointed by the Governing Body upon the recommendation of the Director-General. Upon taking up their functions, they are invited by the Director-General to make a solemn declaration to “honourably, faithfully, impartially and conscientiously perform their duties and exercise their powers”. These terms correspond to those of the declaration made by the judges of the ICJ.

Seven COI established so far included at least one member of the Committee of Experts on the Application of Conventions and Recommendations. Click to see an [example](#) where all three members of the COI were serving members of the CEACR. On six occasions, COI included a judge or a former judge of the ICJ.

The Governing Body and the COI have traditionally recognized the procedure as one of a judicial nature. The first ever COI appointed by the Governing Body noted in its report: “The Governing Body in appointing the Commission placed special emphasis on the judicial nature of the task entrusted to it, indicated its desire for “an objective evaluation” of the contentions submitted by “an impartial body”, and required the members of the Commission before taking up their functions to make a solemn declaration in terms corresponding to those of the declaration made by judges of the International Court of Justice.” (Click to read the [report](#) of the COI appointed to examine the case of Portugal, para. 701). Commissions of Inquiry appointed to investigate subsequent complaints have routinely referred to “the judicial nature of the procedure provided for in article 26 and the following articles of the Constitution” (Click to read, for example, the [report](#) of the COI appointed to examine the case of Nicaragua, para. 5). In one of the most recently examined complaints, a COI noted “As earlier Commissions of Inquiry had stressed, the procedure provided for in articles 26 29 and 31 34 of the Constitution was of a judicial nature. Thus, the rules of procedure had to safeguard the right of the parties to a fair procedure as recognized in international law” (Click to read the [report](#) of the COI appointed to examine the case of Zimbabwe, para. 30).

If the Governing Body refers the complaint to a COI, a final report will be prepared by this body, in accordance with [article 28 of the ILO Constitution](#).

The Governing Body may also decide to suspend a decision on referral pending developments.

The Governing Body treats each complaint individually, following developments with a view to progressing toward improved observance of the relevant ratified Convention(s). Click to see an [example](#).

## **W: The Employers' and Workers' groups are actively involved in deliberations within the Governing Body.**

An investigation by a COI takes up substantial resources. The decision to establish an independent COI typically takes into consideration the possibility of achieving the improved observance of ILS by other means. The Employers' and Workers' groups along with governments typically explore possible alternative measures before making the final decision of establishing a COI.

## **G: The government concerned may provide a statement if so requested.**

If invited by the Governing Body to provide a statement on the complaint, the government has the possibility of giving its view of the matter to the Governing Body. As a result, the Governing Body may decide that it will let the matter lie with regular supervision by the [CEACR](#), closing the complaint without referring the matter to a COI. Click to see an [example](#).

## **E: The Employers' and Workers' groups are actively involved in deliberations within the Governing Body.**

An investigation by a COI takes up substantial resources. The decision to establish an independent COI typically takes into consideration the possibility of achieving the improved observance of ILS by other means. The Employers' and Workers' groups along with governments typically explore possible alternative measures before making the final decision of establishing a COI.

## ▶ 4. The COI examines the complaint

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### **I: Each COI establishes its own working methods for examining a complaint and prepares a report with findings and recommendations.**

There are no Standing Orders for the procedure of a COI. In accordance with the established practice, the Governing Body leaves the matter to the COI itself, subject only to the provisions of the ILO Constitution, its own general guidance, and the practice followed by previous Commissions.

Commissions of Inquiry have most frequently adopted the following rules, some of which are mere formal expressions of what is already inherent in the judicial nature of the procedure:

- the COI must perform its task with complete objectivity, impartiality and independence;
- the COI must not be confined to the examination of the information provided by the parties, but takes all appropriate measures to obtain information that is as full and objective as possible on the questions at issue;
- the complainants and the government concerned must designate a representative who shall remain at the disposal of the COI during the entire period of its mandate;
- all information that comes to the notice of the COI is confidential;
- the members of the COI, its secretariat and any person appearing before it are accorded the privileges and immunities pursuant to the [1947 Convention on the Privileges and Immunities of the Specialized Agencies](#);
- the COI determines who may be present in any of its meetings, the schedule of any on-the-spot missions and whom it shall meet during such missions;
- witnesses are designated by the parties, or invited by the COI, and make a solemn declaration “upon their honour and conscience to speak the truth, the whole truth and nothing but the truth”;
- witnesses are heard in private sittings, may be cross-examined and the information and evidence presented is treated as fully confidential;
- the COI may at any time address questions to witnesses and reserves the right to recall witnesses;
- representatives of the parties may question one another; and
- any questions of admissibility of evidence are determined by the COI itself.

In most cases, the rules for the hearing of witnesses are set out in a separate annex of the report of the COI.

The ILO Constitution requires the COI [to prepare a report embodying findings on all questions of fact and containing time-bound recommendations](#).

A COI is duty-bound to “throw full light on the facts” (Click to read the [report](#) of the COI appointed to examine the case of Portugal, para. 15) in relation to the allegations in a complaint, including through:

- collection of written submissions;
- receiving evidence and cross-examining witnesses; and
- a visit to the country concerned – if permitted by the government – and the hearing of parties.

The COI prepares a detailed report of its investigation.

## G: Governments are required to cooperate with a COI.

Under [article 27 of the ILO Constitution](#), all member States are required to cooperate with a COI, whether directly concerned in the complaint or not. Governments in particular must “place at the disposal of the COI all the information in their possession which bears upon the subject-matter of the complaint”.

As a matter of practice, past COI have invited written submissions and observations from:

- the member State in respect of which the complaint is filed;
- the complainant(s);
- any other interested member State as well as employers’ or workers’ organizations concerned, in particular employers’ and workers’ organizations having consultative status with the ILO;
- members or deputy members of the Governing Body;
- countries neighbouring the member State concerned or having important economic relations with it;
- international organizations within the United Nations system and regional organizations;
- non-governmental organizations operating in the legal, human rights and humanitarian spheres; and
- private companies mentioned in the complaint.

According to the established practice, the COI asks the government of the member State concerned for assurances that no obstacles will prevent the attendance before it of persons whom the COI wishes to hear and that all witnesses would enjoy full protection against any sanction or prejudice on account of their attendance or evidence before the COI.

## ▶ 5. The CFA examines the complaint

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**I: Complaints referred to the CFA are treated according to the CFA procedures, and reported upon to the Governing Body as such, with follow-up by the CEACR as appropriate.**

The Governing Body may also decide to send the complaint to the CFA and/or the CEACR to further examine allegations and observations related to their respective mandates. The Governing Body may then take note of the findings of these supervisory bodies when considering whether to establish a COI.

In the cases of [Poland](#) and [Nicaragua](#), for example, the decision to set up a COI took longer than normal due to the examination of the matters at issue by the CFA.

Click to know more about the [procedure for complaints to the CFA](#), to see an [example](#) of referral of a complaint to the CFA, as well as to know more about the [regular supervisory machinery](#).



## ▶ 6. The COI report is published and actions are required

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### I: Once the report of a COI is published, actions are required on it.

The report of a COI is communicated by the Office, which has acted as its secretariat, to the Governing Body, which takes note of it, and to the government concerned. Once published in the *Official Bulletin*, the report is made available in hard copy and on the [ILO website](#).

The report contains the recommendations by the COI and the timeframe for their implementation.

As prescribed in [article 29 of the ILO Constitution](#), within three months the government concerned informs the Director-General whether or not it accepts the recommendations contained in the report of the COI, and if not, whether it proposes to refer the complaint to the ICJ.

Implementation of recommendations by a COI is followed up through regular supervision by the CEACR and the CAS. Click to see the [regular supervisory procedure](#).

**W: If a complaint has been initiated by Employers' or Workers' delegates, their respective groups become consulting actors after the Governing Body has appointed a COI and the report is published.**

Once the Governing Body acts on a complaint lodged by Employers' or Workers' delegates to the International Labour Conference, these same delegates play no further role in the procedure. Employers' and workers' organizations having consultative status with the ILO may be invited by the COI to present information in relation to the work and report of a COI. The Employers' and Workers' groups in the Governing Body continue to inform the work of the Governing Body as constituents. A government that has initiated a complaint may refer it to the ICJ, but the ILO Constitution does not give complainant delegates the opportunity to refer their complaint to the ICJ.

## **G: The government concerned may accept the recommendations of the COI or propose referral of the complaint to the ICJ.**

Both the complainant government and the government against which the complaint has been lodged may propose to refer the complaint to the ICJ.

No government has ever referred a complaint investigated by a COI to the ICJ. Ultimately and at different paces, all governments against which complaints have been made have moved to implement recommendations.

**E: If a complaint has been initiated by Employers' or Workers' delegates, their respective groups become consulting actors after the Governing Body has appointed a COI and the report is published.**

Once the Governing Body acts on a complaint lodged by Employers' or Workers' delegates to the International Labour Conference, these same delegates play no further role in the procedure. Employers' and workers' organizations having consultative status with the ILO may be invited by the COI to present information in relation to the work and report of a COI. The Employers' and Workers' groups in the Governing Body continue to inform the work of the Governing Body as constituents. A government that has initiated a complaint may refer it to the ICJ, but the ILO Constitution does not give complainant delegates the opportunity to refer their complaint to the ICJ.

## ▶ 7. The ICJ decides

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### **I: The ICJ finally decides any complaint referred to it.**

Under [article 31 of the ILO Constitution](#), any decision of the ICJ regarding a complaint which has been referred to it by the governments concerned shall be final. In practice, no complaint has ever been referred to it.

## ▶ 8. The Governing Body may recommend action to the International Labour Conference

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### I: The Governing Body may recommend action to the International Labour Conference when a government fails to implement recommendations of a COI or the ICJ.

Under [article 33 of the ILO Constitution](#), when a government fails to carry out the recommendations of a COI or the decision of the ICJ, the Governing Body may recommend to the International Labour Conference any action it deems wise and expedient to secure compliance.

The Governing Body has [once availed itself of this authority](#), when the International Labour Conference then adopted the [Resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Myanmar](#) to secure compliance with the recommendations of the COI established to examine the observance of the obligations in respect of the [Forced Labour Convention, 1930 \(No. 29\)](#). All constituents – governments, employers and workers – were asked to review their relations with Myanmar to ensure that the recommendations were applied in full, and follow-up to the recommendations was then secured by the CAS, which regularly discussed the item in a special sitting set aside for this purpose until 2012, and the CEACR.

[Click to read more about the practice followed in this case.](#)

## Practice on the use of article 33 of the ILO Constitution

The provisions of [article 33 of the ILO Constitution](#) do not stipulate the nature of the measures that the Governing Body may recommend for adoption by the International Labour Conference where a Member flagrantly and persistently fails to carry out its obligations. The provisions result from an amendment to the ILO Constitution adopted in 1946. The text of article 33 adopted in 1919 only provided for economic sanctions that could be imposed on a Member in the event of its failing to carry out the recommendations of a COI. The original provision had “been carefully devised in order to avoid the imposition of penalties, except in the last resort, when a State has flagrantly and persistently refused to carry out its obligations under a Convention.” (Click to read the [Report presented by the Commission on International Labour Legislation](#), p. 266).

The amendment of 1946 broadened the range of measures that might be recommended, leaving the Governing Body full discretion to adapt its action to the circumstances of the particular case (Report of the Delegation for Constitutional Questions, Part 1, para. 64).

It is understood that the Governing Body nevertheless has good reason for basing its decision on two criteria. The first ensues from the recommendations of the Commissions of Inquiry themselves: that the measure to be taken must correspond to the objectives of the COI’s recommendations. The second criterion ensues from article 33 itself and concerns the fact that the measures must be deemed by the Governing Body to be appropriate for securing compliance with the recommendations of the COI (Governing Body document GB.276/6, para. 19).

It is also understood that the Governing Body cannot propose a decision concerning the suspension or expulsion of a member State. This is to be concluded from the fact that the two constitutional amendments adopted by the International Labour Conference at its 48th Session in 1964 concerning the suspension or expulsion of a Member did not enter into force because the number of ratifications was too low (Governing Body document GB.276/6, para. 20).

The Governing Body has so far only once used the authority bestowed on it by article 33.

- In 1999, it proposed action which would culminate in the International Labour Conference adopting two resolutions recommending restrictions on Myanmar’s participation in the Organization and the wider international community.
- The COI set up by the Governing Body in 1997 to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), in response to a complaint against the Government of Myanmar made by 25 Workers’ delegates to the International Labour Conference, concluded its work in 1998. It found that there was abundant evidence of “the pervasive use of forced labour imposed on the civilian population throughout Myanmar by the authorities and the military” and made several recommendations for action to improve the situation (Click to read the [report of the COI appointed to examine the case of Myanmar](#), para. 528).
- The Director-General subsequently reported back to the members of the Governing Body in May 1999 that there was “no indication that the three recommendations of the Commission of Inquiry have yet been followed”.
- In view of the gravity of the situation, the International Labour Conference in 1999 adopted a resolution deeply deploring the continued infliction of “the practice of forced labour – nothing but a contemporary form of slavery – on the people of Myanmar”, and resolving “that the attitude and behaviour of the Government of Myanmar are grossly incompatible with the conditions and principles governing membership of the Organization”. It also decided “that the Government of Myanmar should cease to benefit from any technical cooperation or assistance from the ILO, except for the purpose of direct assistance to implement immediately the recommendations of the Commission of Inquiry” and “that the Government ... should henceforth not receive any invitation to attend meetings, symposia and seminars organized by the ILO, except such meetings that have the sole purpose of securing immediate and full compliance with the said recommendations, until such time as it has implemented the recommendations of the Commission of Inquiry” (Click to read the [Resolution on the widespread use of forced labour in Myanmar](#)).
- In March 2000, the Governing Body submitted a number of measures under article 33 to be considered by the International Labour Conference for adoption.

- In June 2000, the International Labour Conference adopted a Resolution recommending (a) to ILO constituents to review their relations with Myanmar “to ensure that the said Member cannot take advantage of such relations to perpetuate or extend the system of forced or compulsory labour referred to by the Commission of Inquiry, and to contribute as far as possible to the implementation of its recommendations”; and (b) to international organizations to reconsider their cooperation with Myanmar “and, if appropriate, to cease as soon as possible any activity that could have the effect of directly or indirectly abetting the practice of forced or compulsory labour”.
- While the restrictions remained in place, the CAS reviewed the situation with respect to the implementation of the recommendations of the COI every year “at a sitting of the Committee on the Application of Standards specially set aside for the purpose” (Click to read the [Resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Myanmar](#)).
- In 2012, the International Labour Conference resolved to lift the restrictions in light of progress made by Myanmar towards complying with the recommendations of the COI (Click to read the [Resolution concerning the measures on the subject of Myanmar adopted under article 33 of the ILO Constitution](#)). The substantive progress noted by the CAS and the CEACR in the same year included:
  - (i) the orders issued by the Commander-in-Chief of the Defence Services in March 2012 advising all military personnel that strict and stern military disciplinary actions shall be taken against perpetrators of military under-age recruitment, and those of April 2012 which make the new law prohibiting forced labour applicable to the military with perpetrators being prosecuted under section 374 of the Penal Code;
  - (ii) budget allocations made for the payment of wages for public works at all levels for 2012–13;
  - (iii) the progress made on the translation into local languages of the brochure on the complaints mechanism;
  - (iv) the statement made by the President on May Day 2012 committing the Government to acceleration of action to ensure the eradication of all forms of forced labour; and
  - (v) disciplinary measures taken against 166 military personnel and action taken under section 374 of the Penal Code against 170 other government officials and five military personnel. (Click to see in the NORMLEX database the [CEACR observation, adopted in 2012 and published in the report submitted to the 102nd Session of the International Labour Conference \(2013\)](#)).



## ▶ 9. Follow up of the complaint through regular supervision

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### **I: The implementation of the recommendations of a COI falls under the mandate of the regular supervisory bodies.**

Linkages are established with the regular supervisory machinery in that the measures taken by the government pursuant to the recommendations of a COI are examined by the CEACR and the CAS. Click to know more about the [regular supervisory machinery](#).

Click to see an [example](#) or search in the [NORMLEX database](#) for the exact phrase “Follow-up to the recommendations of the Commission of Inquiry”.

## ▶ Hourglass

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### **Consideration of a complaint can take from several months to several years.**

Complaints are treated by the Governing Body at its discretion. For example, a complaint case brought by delegates to the International Labour Conference could be closed by referral to the CFA within months after it is lodged. Alternatively, a complaint can remain pending for years subject to developments that are followed by the Governing Body. Click to see the list of complaints by status in the [NORMLEX database](#).

The average investigation of a complaint by a COI is about 19 months.

Special procedures

## With complaints to the CFA

Freedom of association and collective bargaining are among the fundamental principles of the ILO. Their respect is implicit in membership in the Organization. ILO constituents thus have available to them a procedure for alleging violations of these principles, regardless of ratification of the relevant Conventions.

## ▶ 1. The complaint alleging violation of freedom of association and collective bargaining is lodged

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**I: A complaint can be lodged by any ILO constituent – a government, employers’ or workers’ organizations – against a government, whether or not the country concerned has ratified the relevant Conventions.**

Set up in 1951, the 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 meets three times a year, in the weeks before the Governing Body meetings in March, June and November.

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### **Mandate**

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. These principles concern fundamental rights which are the subject of international labour Conventions on freedom of association and collective bargaining, as enshrined in the [Preamble to the ILO Constitution](#) and the [Declaration of Philadelphia](#). The CFA also examines infringements of civil liberties, as defined in the [Universal Declaration of Human Rights \(1948\)](#), which are essential for the normal exercise of trade union rights and as expressed in the [Resolution concerning trade union rights and civil liberties](#) adopted by the International Labour Conference in 1970. The CFA examines complaints whether or not the country concerned has ratified the relevant Conventions.

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.

### **Role of the CFA subcommittee**

Since 2016, the CFA has a subcommittee whose proposals are placed before the CFA for final decision. The subcommittee has appreciably strengthened the CFA’s governance role with respect to several aspects of its work:

- criteria for merging cases;
- identification of priority cases for examination and cases that can be merged;
- the setting of the agenda of the next CFA meeting, ensuring rapid examination of serious and urgent cases and relative regional balance;
- a dynamic follow-up review of the effect given to its recommendations; and
- an improved presentation of the introduction to the CFA report to communicate more clearly and effectively its expectations to constituents.

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As of today, the CFA has examined more than 3,300 cases covering most aspects of freedom of association and collective bargaining and a [Compilation of its decisions](#) is available in the ILO website.

The recently established practice of publishing CFA annual reports provides helpful information on the use of the procedure throughout one year. The annual report is supported by statistical data, e.g. on the number of lodged complaints, the origin and nature, and other details with regards to the work undertaken by the CFA, the progress made and the serious and urgent cases examined. Since 2019, the Chair of the CFA presents the annual report to the CAS.

For more information on the procedure, see on the ILO website the [overview on the CFA](#), the [Procedures for the examination of complaints alleging violations of freedom of association](#), which is annexed to the Compilation of decisions, and the [CFA reports](#). To know more about the procedure before the CFA, a [flowchart presentation](#) is also available.

[Click to read about the cooperation with the Economic and Social Council of the United Nations in respect of freedom of association.](#)

## Fact-Finding and Conciliation Commission on Freedom of Association

### Cooperation with the Economic and Social Council of the United Nations in respect of freedom of association

In January 1950, the Governing Body of the International Labour Office, following discussions with the [Economic and Social Council of the United Nations \(ECOSOC\)](#), established a Fact-Finding and Conciliation Commission on Freedom of Association (FFCC). It [defined](#) its terms of reference, the general lines of its procedure and criteria for its composition, essentially the necessary qualifications to hold high judicial office or to evaluate evidence relating to violation of trade union rights and who, by reasons of their character, standing and impartiality, would command general confidence.

In February 1950, ECOSOC approved this decision. The Governing Body appointed the nine members of the FFCC in March and June 1950 and November 1952, and reconstituted the membership of the FFCC in May-June 1963, March 1965, and May-June 1965. The Governing Body envisaged that arrangements might be made, when appropriate, for the work of the FFCC to be done by panels of not less than three or more than five members.

### Mandate

The Commission's function is to examine cases of alleged infringements of trade union and employers' organization rights, in particular alleged infringements by governments of member States that have not ratified Conventions concerning freedom of association or collective bargaining. Such allegations may be referred to the FFCC by the Governing Body or the International Labour Conference acting on the report of its Credentials Committee.

It is also open to any government against which an allegation of infringement of trade union and employers' organization rights is made to refer such an allegation to the FFCC for investigation.

The FFCC is essentially a fact-finding body, but it is authorised to discuss situations referred to it for investigation with the government concerned with a view to securing the adjustment of difficulties by agreement.

### Consent required of the government concerned

Cases concerning countries that have not ratified Conventions concerning freedom of association or collective bargaining can only be referred to the FFCC with the consent of the government concerned.

If the Governing Body is of the opinion that a complaint should be investigated it must first seek the consent of the government concerned. If such consent is not forthcoming, the Governing Body has to give consideration to such refusal with a view to taking any appropriate alternative action designed to safeguard the rights relating to freedom of association and collective bargaining involved in the case, including measures to give full publicity to charges made, together with any comments of the government concerned, and to that government's refusal to co-operate in ascertaining the facts and in any measures of conciliation. The consent of a government might be given either in an individual case or, more generally, in advance, for certain categories of cases, or for any case which might arise.

### Allegations against the government of a UN member State which is not an ILO member State

Pursuant to the procedure agreed upon by ECOSOC and the Governing Body of the International Labour Office, all allegations regarding infringements of trade union and employers' organization rights received by the United Nations from governments or employers' or workers' organizations against ILO member States are to be forwarded to the Governing Body for consideration as to referral to the FFCC.

Pursuant to a resolution adopted by ECOSOC on 9 April 1953 such complaints concerning ILO member States have, since that time, been transmitted automatically by the Secretary-General of the United Nations to the Governing Body without having first been examined, as previously, by ECOSOC. Allegations regarding infringements of trade union and employers' organization rights received by the United Nations from governments or employers' or workers' organizations relating to States Members of the United Nations which are not ILO member States are transmitted to the FFCC through the Governing Body when the Secretary-General of

the United Nations, acting on behalf of ECOSOC, has received the consent of the government concerned, and if ECOSOC considers these allegations suitable for transmission.

If such consent of the government is not forthcoming, ECOSOC will give consideration to such refusal with a view to taking any appropriate alternative action designed to safeguard the rights relating to freedom of association and collective bargaining involved in the case. If the Governing Body has before it allegations regarding infringement against a Member of the United Nations which is not an ILO member State, it will refer such allegations in the first instance to ECOSOC.

### **Preliminary examination by the CFA**

For the purpose of making the preliminary examination of complaints received, the Governing Body in 1951 set up a Committee on Freedom of Association, consisting of nine of its own members, together with nine substitute members. When the CFA, after its preliminary examination, concludes that a case warrants further examination, it reports this conclusion to the Governing Body for a determination as to the desirability of attempting to secure the consent of the government concerned to the reference of the case to the FFCC. Click to see an [example](#).

In every case in which the government against which the complaint is made has refused consent to referral to the FFCC or has not within four months replied to a request for such consent, the CFA may include in its report to the Governing Body recommendations as to the “appropriate alternative action” which the CFA may believe the Governing Body might take. In certain cases the Governing Body itself has discussed the measures to be taken where a government has not consented to a referral to the FFCC.

### **Reports of the FFCC**

The FFCC reports to the Governing Body on the results of its work and it is for the Governing Body to consider in the first instance whether further action should be taken on the basis of the report. Subject to the foregoing, the FFCC is left to work out its own rules of procedure.

The reports of the FFCC on cases regarding States Members of the United Nations not ILO member States are to be transmitted to ECOSOC by the Director-General on behalf of the Governing Body.

### **Practical use of the procedure**

The procedure has resulted in a report by the FFCC on [six occasions](#) in the past, the last time in 1992.

Key factors behind the relatively sparse use of the procedure include:

1. the fact that today, Conventions concerning freedom of association and collective bargaining are much more widely ratified than when the FFCC was first constituted;
2. the effectiveness of the CFA’s examination of allegations of infringement of principles of freedom of association and the effective recognition of the right to collective bargaining; and
3. the fact that the membership of both the United Nations and the ILO has become more universal than when the FFCC was first constituted.

The procedure remains available to date.

## **W: A complaint to the CFA from workers' organizations must be receivable.**

The CFA has established criteria according to which a complaint can be deemed receivable. One of them relates to the complainant organization, in that allegations are receivable if they are submitted by:

- a national organization representing workers directly interested in the matter;
- international organizations of workers having consultative status with the ILO; or
- other international organizations of workers where the allegations relate to matters directly affecting their affiliated organizations.

Click to see the full [checklist for receivability of complaints](#).

Furthermore, it is important that the complaint:

- describes the facts in detail;
- is fully supported by evidence;
- lists 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
- includes information on national tripartite mechanisms established in the framework of the technical assistance provided by the Office, where applicable.

Click to see a [checklist on the content of the complaint](#).

The CFA has recently requested the Office to develop an electronic form for filling complaints, including a question to facilitate the complainant's consideration of the possibility of voluntary conciliation.

For more information, see also on the ILO website the [App](#) specifically developed for workers' organizations.



## **G: A complaint to the CFA is always brought against a government.**

Complaints are brought against governments. They are received and treated by the CFA regardless of whether the member State concerned has ratified any of the Conventions dealing with freedom of association and collective bargaining. This is because member States are deemed bound to respect the fundamental principles of freedom of association and the effective recognition of the right to collective bargaining contained in the [ILO Constitution](#), including the [Declaration of Philadelphia](#), by virtue of their membership in the Organization.

Governments are called to respond to allegations that legislation and/or practices have violated these principles. They are also called to answer to allegations over actions by employers or workers, or their organizations, that violate the above-mentioned principles, since governments are charged with promoting and assuring respect for them within their territory.

## **E: A complaint to the CFA from employers' organizations must be receivable.**

The CFA has established criteria according to which a complaint can be deemed receivable. One of them relates to the complainant organization, in that allegations are receivable if they are submitted by:

- a national organization representing workers directly interested in the matter;
- international organizations of workers having consultative status with the ILO; or
- other international organizations of workers where the allegations relate to matters directly affecting their affiliated organizations.

Click to see the full [checklist for receivability of complaints](#).

Furthermore, it is important that the complaint:

- describes the facts in detail;
- is fully supported by evidence;
- lists 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
- includes information on national tripartite mechanisms established in the framework of the technical assistance provided by the Office, where applicable.

Click to see a [checklist on the content of the complaint](#).

The CFA has recently requested the Office to develop an electronic form for filling complaints, including a question to facilitate the complainant's consideration of the possibility of voluntary conciliation.

For more information, see also on the ILO website the [page with publications on ILS](#), where resources specifically developed for employers' organizations can be found.

## ▶ 2. The government provides observations

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### I: The Office informs the government against whom the allegations are made and asks for its observations.

If a complaint meets the basic admissibility requirements, the Office gives the complaint a case number, informs the government concerned of the complaint and asks for its observations on the allegations. To know more, see the “Rules for relations with the government concerned” in the [Procedures for the examination of complaints alleging violations of freedom of association](#).

The CFA has recently decided to adopt a similar approach of optional voluntary conciliation for complaints as has been adopted with respect to representations under [article 24 of the ILO Constitution](#). Upon acknowledging a complaint and transmitting it to the government, an additional paragraph will be included pointing to the possibility of optional voluntary conciliation which, if agreed to by both parties, would lead to a temporary suspension of the examination of the complaint for a period of six months. Such cases will be noted in a special paragraph of the introduction of the CFA report, demonstrating the willingness of the parties to attempt to find appropriate solutions at national level. The CFA will review the impact of this approach after a trial period.

In terms of information responding to the allegations, the CFA may hear the parties, or one of them, where:

- the complainants and the government have submitted contradictory statements on the substance of the matters at issue; or
- the CFA considers it useful to have an exchange of views on certain matters with the government concerned and the complainants in order to appreciate more fully the factual situation, examine
- the possibilities for solving the problems and seek conciliation; or
- particular difficulties have arisen in the examination of questions involving the implementation of its recommendations.

In practice, face-to-face hearings occur very exceptionally.

## **W: The complainant organization may amplify allegations.**

Where a workers' organization is the complainant, the Office may solicit further information from the complainant in the light of the observations from the government, once received. This is particularly the case where the statements contained in the complaint and the government's reply merely cancel one another out but do not contain any valid evidence. See the "Rules concerning relations with the complainant" in the [Procedures for the examination of complaints alleging violations of freedom of association](#).

## **G: The government provides observations on allegations, supported by documentary evidence. A hearing of the parties may exceptionally occur.**

Since the CFA meets only three times a year, the Office systematically seeks to have the relevant government make observations on the allegations. Follow-up special communications may sometimes be necessary.

- The CFA follows a practice of drawing the special attention of the Governing Body to specific cases it has examined because of the extreme seriousness and urgency of the matters dealt with therein. It does so by highlighting these cases in a special paragraph in the introductory part of its report, under the heading "Serious and urgent cases which the Committee draws to the special attention of the Governing Body". Special communications may be sent by the Director-General following up on these cases.
- The CFA follows a practice of issuing "urgent appeals" if, despite the time which has elapsed since the submission of the complaints or the issuance of its recommendations on at least two occasions, it has not received the observations of the governments in a particular case. "Urgent appeals" are equally found in a special paragraph in the introductory part of its report. Advance warnings of a potentially forthcoming "urgent appeal" equally feature in the introductory part of the report. Click to see [examples](#) in paras 6 and 7 of the CFA report. The government is warned that at its following session the CFA may examine the complaint even in the absence of a reply, i.e. by default.
- Action to secure a reply may be taken by the Chair, on behalf of the CFA, during the Governing Body or the International Labour Conference through contacts made with the representatives of the government concerned.

ILO field offices may be called on to hasten the sending of government observations on complaints.

As clarified in the "Rules for relations with the government concerned" in the [Procedures for the examination of complaints alleging violations of freedom of association](#), the replies from governments should not be limited to general observations, but they should be detailed.

## **E: The complainant organization may amplify allegations. Employers' organization can also provide information to the government.**

Where an employers' organization is the complainant, the Office may solicit further information from the complainant in the light of the observations from the government, once received. This is particularly the case where the statements contained in the complaint and the government's reply merely cancel one another out but do not contain any valid evidence. See the "Rules concerning relations with the complainant" in the [Procedures for the examination of complaints alleging violations of freedom of association](#).

If the complaint concerns the private sector, the government is requested to obtain the view of the enterprise concerned by contacting the employers' organization. A summary of the views of the employers' organization will be then included in the report.

## ▶ 3. On-the-spot missions are possible

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### **I: Recourse to preliminary contacts, direct contacts or tripartite missions may be had.**

In handling an allegation, on-the-spot 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 may take place.

Preliminary contacts may occur early on in the process of treating the matter. They are used for complaints of a particularly serious nature and 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 trade union and employers' organization 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.

Direct contacts 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.

On certain occasions, and normally after in-depth examination of the case, the CFA may propose to the government concerned to accept a tripartite mission with the purpose to assist in the resolution of the outstanding issues.

## ▶ 4. The CFA examines the complaint

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### I: The CFA considers the allegations and reaches conclusions and recommendations on the basis of consensus.

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

No representative or national of the State against which a complaint has been lodged, or person occupying an official position in the national complainant organization, or a member from the employers' or workers' group of the country concerned, may participate in the deliberations or even be present during the hearing of the complaint in question. Similarly, the documents concerning the case are not supplied to them.

#### *Prescription*

Despite there are no formal rules fixing any particular period of prescription in the procedure for examining complaints, the CFA has acknowledged that it may be difficult for a government – if not impossible – to reply in detail to allegations regarding matters which occurred a long time ago. It may in such cases choose not to examine the complaint.

#### *Withdrawal of complaints*

Any request for withdrawal of a complaint must come from the complainant organization 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 practice followed by the CFA consists of deciding the question in full freedom when the reasons given for the request have been evaluated and taking into account the circumstances of the case. See the [Procedures for the examination of complaints alleging violations of freedom of association](#) for details.

The CFA report of a case is transmitted to the full Governing Body for approval, and ultimately published in the [Official Bulletin](#) and on the [ILO website](#). CFA reports on each case have the following structure: allegations made, government's reply, conclusions and recommendations of the CFA. Since case handling normally continues over several meetings, case reports use a particular terminology to reflect status and results.

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### Nature of CFA reports

**Definitive report:** 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.

**Interim report:** The government concerned 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.

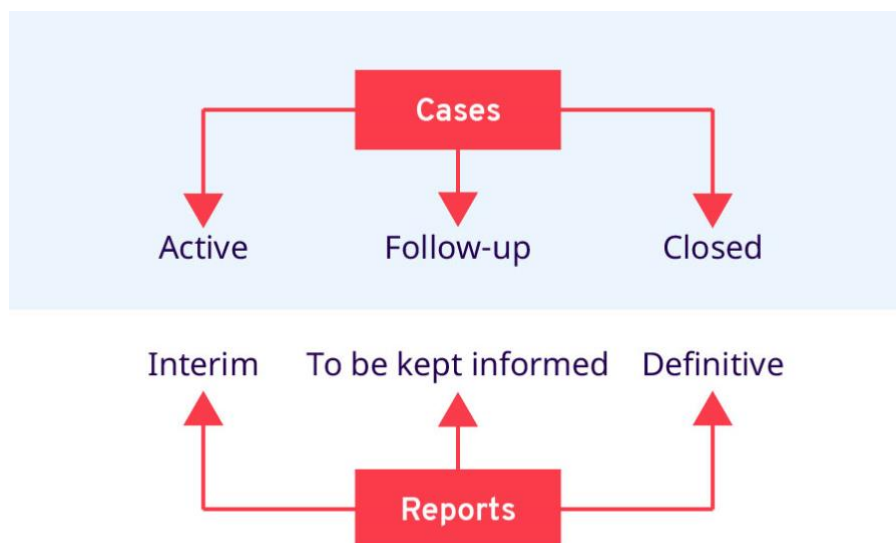
The CFA normally re-examines the case when it receives the government and/or complainant's additional information and will issue an "urgent appeal" if it has not received the information requested from the government after two postponements. After the re-examination, the CFA may make new interim conclusions and recommendations in light of any new information provided and continue to keep the case under full examination.

**Report in which the Committee requests to be kept informed of developments:** 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.



## CFA cases and reports terminology

The table below explains the terminology used for the status of cases before the CFA and that used to classify the CFA reports on a case.



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CFA reports can also be found in the NORMLEX database, where cases appear by status in the [country profiles](#).

The CFA has recently decided that any inactive cases, i.e. cases that have not received information from the parties for 18 months (or 18 months from the last examination of the case), will be considered closed. This practice would not be used 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. Cases that are closed in this manner will have the following indication on the ILO website: "In the absence of information from either the complainant or the Government in the last 18 months since the Committee examined this case, this case has been closed."

## **W: Views of the Workers' group are considered in the CFA.**

The members from the Workers' group also bring the experience of representative organizations of workers to the deliberation of cases in the CFA. Nevertheless, they have been able to reach consensus on the decisions over the years. The role played by the independent chairperson of the CFA is important in this regard.

## **G: The government uses formal channels to communicate with the CFA subsequent to providing observations on the allegations.**

Once the government has provided observations on the allegation, only formal channels of communication are open to provide additional information or observations to the CFA, supported by documentary evidence. A hearing of the parties may exceptionally occur. Likewise, the CFA uses only formal communication channels to give its views or request additional information.

## **E: Views of the Employers' group are considered in the CFA.**

The members from the Employers' group also bring the experience of representative organizations of employers to the deliberation of cases in the CFA. Nevertheless, they have been able to reach consensus on the decisions over the years. The role played by the independent chairperson of the CFA is important in this regard.

## ▶ 5. The Governing Body approves the CFA report

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

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 as well each case's stage of handling – whether a complain had just been received, a government's observations has been requested or received, the matter treated substantively, etc.

Where the relevant Conventions have been ratified, in the report the CFA may decide to bring the relevant legislative aspects of a case to the attention of the CEACR. In this way, the government involved will normally be asked to reply to comments made by the CEACR on the conformity of the legislation and its application in practice with the ratified Convention. The CEACR will thus follow up on the outstanding issues related to the Convention until the requested action has been taken and the issue of compliance has been resolved. Click to know more about the [regular supervisory machinery](#).

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

## **W: The complainant organization can follow up on measures taken to implement recommendations of the CFA.**

Where a workers' organization is the complainant, it can follow up directly on the measures taken to implement the recommendations of the CFA and inform about compliance or non-compliance with them.

## **G: The government provides information on measures taken to implement recommendations of the CFA.**

Governments provide information on the manner in which the recommendations made by the CFA are implemented. This will be either to the CFA, or in response to comments made by the CEACR in the regular supervision of the relevant ratified Conventions.

## **E: The complainant organization can follow up on measures taken to implement recommendations of the CFA. The employers' organization provides information.**

Where an employers' organization is the complainant, it can follow up directly on the measures taken to implement the recommendations of the CFA and inform about compliance or non-compliance with them.

Where actions by enterprises are implicated by CFA recommendations, governments are requested to follow up with employers' organizations concerned. For example, if the recommendation involves the reinstatement of workers, the relevant enterprise will have to keep the government abreast of its actions in that regard, via the employers' organization.



## ▶ Hourglass

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**It can take nine months or more for a case to be handled by the CFA. Steps can be taken in cases of urgency, whereby the CFA deals with the case on a priority basis, advancing the normal timeframe for the matter.**

### **Serious and urgent cases**

Complainants can ask that a case be treated urgently. This must be justified by information given in the complaint. Matters involving human life or personal freedom, or new or changing conditions affecting the freedom of action of a trade union movement as a whole, cases arising out of a continuing state of emergency and cases involving the dissolution of an organization, are treated as cases of urgency.

In serious and urgent cases, preliminary contacts may be established to collect preliminary information in respect of the allegations that have given rise to the complaints or to draw the attention of the authorities to ILO principles and procedures concerning freedom of association. [See step "3. On-the-spot missions are possible"](#).

## Acronyms and terms

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### **CAS:**

Conference Committee on the Application of Standards

### **CEACR:**

Committee of Experts on the Application of Conventions and Recommendations

### **CFA:**

Committee on Freedom of Association

### **COI:**

Commission of Inquiry

### **Director-General:**

Director-General of the International Labour Office

### **Governing Body:**

Governing Body of the International Labour Office

### **ICJ:**

International Court of Justice

### **ILO:**

International Labour Organization

### **ILS:**

International Labour Standards

### **ECOSOC:**

Economic and Social Council of the United Nations

### **FFCC:**

Fact-Finding and Conciliation Commission on Freedom of Association