ANNEX A

CEACR Guidance on the Right to Strike in ILO Convention 87

TABLE OF CONTENTS

Introduction 2

1. Modalities 4

1.1. General prohibition 4

1.2. Federations and Confederations 4

1.3. Political strikes 4

1.4. Sympathy strikes 4

1.5. Work stoppage 4

1.6. "Go-slow strikes" and "work-to-rule" actions 4

2. Permitted restrictions and compensatory guarantees 4

2.1. Public service 4

2.2. Essential services in the strict sense of the term 5

2.3. Negotiated minimum service 6

2.4. Situations of acute national or local crisis 7

2.5. Compensatory guarantees for workers deprived of the right to strike 7

2.6. Restrictions on strikes during the term of a collective agreement 7

3. Prerequisites 8

3.1. Exhaustion of prior procedures (conciliation, mediation and voluntary arbitration) 8

3.2. Advance notice, cooling-off periods and the duration of strikes 8

3.3. Quorum and majority required to call a strike 9

3.4. Prior approval and supervision of strike ballots 9

4. The course of the strike 9

4.1. Picketing, occupation of the workplace, access to the enterprise and freedom of work 9

4.2. Requisitioning of strikers and hiring of external workers 10

5. Compulsory arbitration 10

6. Sanctions 11

6.1. Penal sanctions 11

6.2. Dismissal for strike action and reinstatement of strikers 12

Disclaimer: The purpose of this compilation is solely to provide a quantitative overview of the scope of the CEACR's interpretations of the right to strike in C87. The compilation is not a CEACR document and there is no guarantee of completeness or accuracy. For the authentic text, please refer to the General Survey 2012.

Introduction

Over time, the CEACR has developed broad, detailed and extensive guidance on the scope and limits of the right to strike in the context of ILO Convention No. 87 ('C87'). In doing so, the CEACR has relied largely on principles developed by the Committee on Freedom of Association, which does not have the mandate to supervise the application of C87.

The CEACR has based its guidance on two provisions in C87 which, however, do not contain any wording related to a right to strike, i.e. (emphasis added):

- **Article 3(1):** *Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.*

- **Article 10:** *In this Convention the term organisation means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.*

The development of these rules was gradual as can be seen from the increasing volume of explanations on the right to strike in the General Surveys on C. 87:

- General Survey of 1959: 1 paragraph (para. 68)
- General Survey of 1973: 8 paragraphs (paras. 106 – 112, 121)
- General Survey of 1983: 29 paragraphs (paras. 199 – 226, 249)
- General Survey of 1994: 45 paragraphs (paras. 136 – 179, 195)
- General Survey of 2012: 44 paragraphs (paras. 117 – 161)

The subsequent overview of the CEACR rules on the right to strike is based on the latest General Survey of 2012.

1. Modalities

1.1. General prohibition

A general prohibition of strikes is incompatible with the Convention, although the prohibition of wildcat strikes is accepted.

1.2. Federations and Confederations

Legislation which denies federations and confederations the right to strike is incompatible with the Convention.

1.3. Political strikes

Purely political strikes are not covered by the Convention. However, strikes relating to the Government`s economic and social policies, including general strikes, should not be regarded as purely political strikes.

1.4. Sympathy strikes

Workers should be able to go on sympathy strikes, provided that the initial strike they are supporting is itself lawful.

1.5. Work stoppage

Work stoppage, however brief and limited, is considered as a strike, and restrictions can only be justified if the action ceases to be peaceful.

1.6. "Go-slow strikes" and "work-to-rule" actions

"Go-slow strikes" and "work-to-rule" actions are covered by the Convention.

2. Permitted restrictions and compensatory guarantees

2.1. Public service

States may only restrict or prohibit the right to strike of *public servants "exercising authority in the name of the State"*.

Not in the category public servants "*exercising authority in the name of the State*" must be included (although minimum services may be envisaged for):

- Public sector teachers
- Postal workers and railway employees
- Civilian personnel in military institutions when they are not engaged in the provision of essential services in the strict sense of the term.

2.2. Essential services in the strict sense of the term

Essential services, for the purposes of restricting or prohibiting the right to strike, are only those *"the interruption of which would endanger the life, personal safety or health of the whole of part of the population."*

This concept is not absolute in its nature in so far as a non-essential service may become essential if the strike exceeds a certain duration or extent, or as a function of the special characteristics of a country (for example, an island State).

It is not compatible with the CEACR's principles regarding essential services if:

- essential services are defined too broadly
- too much discretion is left to the authorities to unilaterally declare a service essential
- strikes are prohibited on the basis of their potential economic consequences (particularly in Export Processing Zones (EPZS) and recently established enterprises)
- strikes are prohibited on the basis of the potential detriment to public order or to the general or national interest

Essential services cannot be considered:

- the banking sector
- railways
- transport services and public transport
- air transport services and civil aviation
- teachers and the public education service
- the agricultural sector
- fuel distribution services
- the hydrocarbon, natural gas and petrochemical sector
- coal production
- maintenance of ports and airports
- port services and authorities and loading and unloading services for ships
- postal services
- municipal services
- services for the loading and unloading of animals and of perishable foodstuffs
- Export Processing Zones (EPZs)
- government printing services
- road cleaning and refuse collection
- radio and television
- hotel services
- and construction

Essential services in the strict sense of the term may include the following ones:

- air traffic control services
- telephone services
- the services responsible for dealing with the consequences of natural disasters
- firefighting services
- health and ambulance services
- prison services
- the security forces and
- water and electricity services.

Other services (such as meteorological services and social security services) may include certain components which are essential and others that are not.

2.3. Negotiated minimum service

In situations in which a substantial restriction or total prohibition of strike action would not appear to be justified and where consideration might be given to ensuring that users basic needs are met or that facilities operate safely or without interruption, the introduction of a negotiated minimum service, as a possible alternative to a total prohibition of strikes, could be appropriate.

The maintenance of minimum services in the event of strikes should only be possible in certain situations, namely:

(i) in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (or essential services "in the strict sense of the term");
(ii) in services which are not essential in the strict sense of the term, but in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population; and
(iii) in public services of fundamental importance.

A minimum service should meet at least two requirements:

(i) it must genuinely and exclusively be a minimum service, that is one which is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear; and
(ii) since this system restricts one of the essential means of pressure available to workers to defend their interests, their organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities.

A minimum service may always be required, whether or not it is in an essential service in the strict sense of the term, to ensure the security of facilities and the maintenance of equipment.

It would be important to adopt explicit legislative provisions on the participation of the organizations concerned in the definition of minimum services.

Any disagreement on minimum services should be resolved, not by the government authorities but by a joint or independent body which has the confidence of the parties, responsible for examining rapidly and without formalities the difficulties raised and empowered to issue enforceable decisions.

2.4. Situations of acute national or local crisis

General prohibitions of strikes resulting from emergency or exceptional powers are only justified in a situation of acute crisis, and then only for a limited period and to the extent necessary to meet the requirements of the situation.

This concerns genuine crisis situations, such as those arising as a result of a serious conflict, insurrection or natural, sanitary or humanitarian disaster, in which the normal conditions for the functioning of society are absent.

2.5. Compensatory guarantees for workers deprived of the right to strike

When the right to strike is restricted or prohibited in certain enterprises or services considered essential, or for certain public servants exercising authority in the name of the State, the workers should be afforded adequate protection so as to compensate for the restrictions imposed on their freedom of action.

Such protection should include, for example, impartial conciliation and eventually arbitration procedures which have the confidence of the parties, in which workers and their organizations could be associated. Arbitration awards should be binding on both parties and once issued should be implemented rapidly and completely.

2.6. Restrictions on strikes during the term of a collective agreement

Compatible with the Convention are both of the following options:

- The legislation in certain countries does not establish any restrictions on the time when a strike may be initiated, stipulating only that the advance notice established by the law or by collective agreement must be observed.
- In other systems, collective agreements are seen as a social peace treaty of fixed duration during which strikes and lockouts are prohibited.

In both types of systems, however, workers' organizations should not be prevented from striking against the social and economic policy of the Government, in particular where the protest is not only against that policy but also against its effects on some provisions of collective agreements.

If legislation prohibits strikes during the term of collective agreements, this restriction must be compensated by the right to have recourse to impartial and rapid arbitration machinery for individual or collective grievances concerning the interpretation or application of collective agreements.

Specific or indirect prohibitions of strikes in special systems of industrial relations established in EPZs are incompatible with the principles of non-discrimination which must prevail in the implementation of the Convention.

3. Prerequisites

3.1. Exhaustion of prior procedures (conciliation, mediation and voluntary arbitration)

Machinery

- requiring an advance notice of strikes to be given to the administrative authorities or to the employer and/or
- establishing an obligation to have recourse to prior conciliation and voluntary arbitration procedures in collective disputes before a strike may be called

should have the sole purpose of facilitating bargaining and should not be so complex or slow that a lawful strike becomes impossible in practice or loses its effectiveness.

With regard to the duration of prior conciliation and arbitration procedures, for instance, the imposition of a duration of over 60 working days as a prior condition for the exercise of a lawful strike may make the exercise of the right to strike difficult, or even impossible.

The situation is also problematic when legislation does not set any time limit for the exhaustion of prior procedures and confers full discretion on the authorities to extend such procedures.

3.2. Advance notice, cooling-off periods and the duration of strikes

Requirements to comply with a notice period or a cooling-off period before calling a strike are acceptable if they are conceived as a stage designed to encourage the parties to engage in final negotiations before resorting to strike action, and thus can be seen as measures taken to encourage and promote the development of voluntary bargaining.

However, the period of advance notice should not be an additional obstacle to bargaining and should be shorter if it follows a compulsory prior mediation or conciliation procedure which itself is already lengthy. An advance notice of 60 days is excessive.

Not compatible with the Convention is when the advance notice must be accompanied by an indication of the duration of the strike, under the threat that workers may be liable to sanctions if they participate in a strike the duration of which is not specified in the notification. Workers and their organizations should be able to call a strike for an indefinite period if they so wish.

3.3. Quorum and majority required to call a strike

Requiring a decision by over half of the workers involved in order to declare a strike is excessive and could unduly hinder the possibility of calling a strike, particularly in large enterprises.

If a country deems it appropriate to require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level. For example, the observance of a quorum of two-thirds of those present may be difficult to reach and could restrict the right to strike in practice.

3.4. Prior approval and supervision of strike ballots

The requirement set out in law to obtain prior approval of a strike by a higher-level trade union organization is an impediment to the freedom of choice of the organizations concerned to organize their activities.

The control or supervision of the strike ballot by the administrative authority constitutes an act of interference in trade union activities that is incompatible with the Convention, unless the trade unions so request, in accordance with their own rules.

4. The course of the strike

4.1. Picketing, occupation of the workplace, access to the enterprise and freedom of work

In so far as the strike remains peaceful, strike pickets and workplace occupations should be allowed.

Restrictions on strike pickets and workplace occupations can only be accepted where the action ceases to be peaceful.

It is however necessary in all cases to guarantee respect for the freedom to work of non-striking workers and the right of the management to enter the premises.

The requirement by law of the closing down of the enterprise, establishment or business in the event of a strike could be an infringement of the freedom of work of non-strikers and could disregard the basic needs of the enterprise (maintenance of equipment, prevention of accidents and the right of directors and managerial staff to enter the installations of the enterprise and to exercise their activities), and accordingly raises problems of compatibility with the Convention.

For instance, legislation which provides that the owners, directors, managing director, the staff closely involved in these functions and workers in positions of trust shall be able to enter the enterprise during the strike, provided that their purpose is not to recommence productive activities would be compatible with the Convention.

4.2. Requisitioning of strikers and hiring of external workers

It is desirable to limit powers of requisitioning to cases in which the right to strike may be limited, or even prohibited, namely:

i) in the public service for public servants exercising authority in the name of the State;
ii) in essential services in the strict sense of the term; and
iii) in the case of an acute national or local crisis.

Provisions allowing employers to dismiss strikers or replace them temporarily or for an indeterminate period are a serious impediment to the exercise of the right to strike, particularly where striking workers are not able in law to return to their employment at the end of the dispute. The legislation should provide for genuine protection in this respect.

5. Compulsory arbitration

Recourse to compulsory arbitration to bring an end to a collective labour dispute and a strike is only acceptable under certain circumstances, namely:

(i) when the two parties to the dispute so agree; or
(ii) when the strike in question may be restricted, or even prohibited, that is:
   a. in the case of disputes concerning public servants exercising authority in the name of the State;
   b. in conflicts in essential services in the strict sense of the term; or
   c. in situations of acute national or local crisis, but only for a limited period of time and to the extent necessary to meet the requirements of the situation.

Accordingly, the existence of protracted disputes and the failure of conciliation are not *per se* elements which justify the imposition of compulsory arbitration.

However, there comes a time in bargaining where, after protracted and fruitless negotiations, the public authorities might be justified to step in when it is obvious that the deadlock will not be broken without some initiative on their part.

Systematic recourse to this type of procedure is tantamount in practice to a general prohibition of strikes, which is incompatible with the Convention.

Arbitration imposed by the authorities at the request of only one of the parties is, in general, contrary to the principles of collective bargaining.

Provisions stating that where the conciliation attempt between the parties to the dispute has not been successful, the dispute may be referred to a specific body responsible for drawing up a report or recommendations which, after a certain period has elapsed, may become enforceable if the parties to the dispute have not challenged them, may be compatible with the Convention, on condition that the period referred to above is sufficiently long to allow the parties the necessary time for reflection.

6. Sanctions

The principles in relation to the right to strike are only valid for lawful strikes, conducted in accordance with the provisions of national law, on condition that the latter are themselves in conformity with the principles of freedom of association. They do not cover the abusive or unlawful exercise of the right to strike, which may take various forms and may give rise to certain sanctions.

If the strike is determined by a competent judicial authority to be unlawful on the basis of provisions that are in conformity with freedom of association principles, proportionate disciplinary sanctions may be imposed against strikers (such as reprimands, withdrawal of bonuses, etc).

Responsibility for declaring a strike illegal should not lie with the government authorities, but with an independent body which has the confidence of the parties involved.

The non-payment of wages corresponding to the period of strike is a mere consequence of the absence of work, and not a sanction.

Salary deductions for days of strike do not raise problems of compatibility with the Convention. Ultimately, the payment of wages to striking workers is a matter appropriate to negotiation between the parties concerned.

6.1. Penal sanctions

No penal sanctions should be imposed against a worker for having carried out a peaceful strike and thus for merely exercising an essential right.

Measures of imprisonment or fines should not be imposed on any account.

Such sanctions could be envisaged only where, during a strike, violence against persons or property, or other serious infringements of penal law have been committed, and can be imposed exclusively pursuant to legislation punishing such acts, such as the Penal Code (for example, in the case of failure to assist a person in danger, deliberate injury or damage deliberately caused to property).

Other types of sanctions, such as fines, the closure of trade union premises, the suspension or deregistration of the trade union concerned, or the removal from office of trade union officers should be possible only where the prohibition of strike action is in conformity with the Convention and the sanctions are proportionate to the seriousness of the fault committed.

In any case, a right of appeal should exist against sanctions imposed by the authorities.

Other kinds of sanctions, e. g. conviction of strikers on the basis of more general provisions of penal legislation, such as the offence of “obstruction of business”; or provision for sentences of imprisonment for failure to appear before the conciliator in the framework of the settlement of an industrial dispute; or provision for penal sanctions in the case of a work slowdown are not compatible with the Convention.

6.2. Dismissal for strike action and reinstatement of strikers

Since the maintaining of the employment relationship is a normal consequence of recognition of the right to strike, its lawful exercise should not result in striking workers being dismissed or discriminated against.

Dismissal for strike action in the case of a lawful strike constitutes serious discrimination based on the exercise of lawful trade union activities, in violation of Convention No. 98.

Workers who participate in a lawful strike should be able to return to work once the strike has ended and the fact of making their return to work subject to certain time limits or the consent of the employer is an obstacle to the effective exercise of the right to strike.

ANNEX B

Table of CEACR Observations, Direct Requests and CAS Cases Regarding C87 and the Right to Strike

The following table shows the number of CEACR observations and direct requests issued on Convention 87 (C87) and the number of observations on C87 that have been discussed in the tripartite Committee on the Application of Standards (CAS) since 2012. While direct requests are not discussed in this tripartite setting[1], the table shows that only a small proportion of the CEACR observations, between 10 and 15%, have formed the basis of CAS tripartite discussion of individual cases and have led to the adoption of conclusions by the CAS. The table also shows that virtually all C87 observations discussed in the CAS have dealt with right to strike issues. To provide a more comprehensive overview, the table also reports the overall number of observations (first column) and direct requests (third column) issued on any Conventions by the CEACR since 2012. It can be seen from this that the number of observations on C87 and the right to strike discussed in the CAS is disproportionately high compared to the number of observations on other Conventions discussed in the CAS.

The source for all the numbers provided below is Normlex.[2]

[1] The CEACR has explained the criteria that it uses for determining whether to make a comment in the form of an observation or a direct request in its annual reports, see, for instance the 2024 report of the CEACR, para 101. The Employers have pointed out on several occasions that, in terms of substance, there is not much difference between the two forms of comments.

[2] For certain numbers, i.e. number of observations and direct requests on the applications of all Conventions (column 1 and 3), a discrepancy exists between Normlex and the yearly CEACR report. For reason of completion of data, the Employers have preferred to refer to Normlex as reference source.

Year	Number of observations on the application of all Conventions	Number of observations on the application of C87	Number of direct requests on the application of all Conventions	Number of direct requests on the application of C87	Number of observations (individual country cases) on the application of C87 discussed in the CAS	Number of observations (individual country cases) on C87 discussed in the CAS that deal with right to strike issues
2024	596	**65**	1,216	**43**	**TBD**[3]	**TBD**
2023	571	**61**	1,155	**42**	**8**	**8**
2022	450	**52**	926	**38**	**8**	**8**
2021	474 + 518 from 2020	**50 + 58 from 2020**	974 + 1,277 from 2020	**39 + 59 from 2020**	**6**	**6**
2020	-	**-**	-	**-**	**-**	**-**
2019	535	**57**	1,075	**47**	**8**	**8**
2018	512	**49**	962	**52**	**6**	**6**
2017	611	**64**	1,146	**62**	**8**	**8**
2016	534	**56**	1,234	**50**	**10**	**10**
2015	548	**45**	1,266	**45**	**9**	**8**
2014	641	**45**	1,571	**43**	**4**	**4**
2013	983	**63**	1,381	**39**	**9**	**9**
2012	961	**73**	1,899	**39**	**-**	**-**

[3] To be decided; the number will be known on 3 June 2024, when the adoption of the list of cases occurs at the first session of the CAS.

ANNEX C

Table of Countries Disagreeing with the CEACR's view on the Right to Strike in ILO Convention 87

The following table provides excerpts from different sources, namely statements delivered during the International Labour Conference or Governing Body sessions, as well as governments' replies to the CEACR's comments (both direct requests and observations). Notably, they show governments' disagreement with the content of the CEACR's comments on the right to strike made in the context of its evaluation of the application of ILO Convention No. 87 ('C87') at the country level. They also show, more broadly, governments' disagreement with the CEACR interpretative activity on this matter, by pointing out that the CEACR has exceeded its mandate by developing broad, detailed and expansive views on the right to strike in the context of C87.

The relevant passages of the statement or document concerned are indicated in **bold** below.

Countries	Excerpts	Source
Belarus	*The Committee notes the* ***Government's indication that the right to strike is not expressly provided for in the Instrument of the ILO; rather, the ILO supervisory bodies derive the right to strike from Article 3 of Convention No. 87, despite the fact that the legality of this interpretation has been questioned by the Employers' Group on several occasions and that under Article 37 of the ILO Constitution, any question or dispute concerning the interpretation of conventions shall be referred to the International Court of Justice, the only body which has the right to interpret Conventions.*** *[...]* ***For the reasons expressed above, the Government disagrees with the calls of the Committee for the amendment of the legislation, in particular as regards section 388(4) of the Labour Code.***	ILO, CEACR comments, 2020.
Denmark	*[P]erhaps* ***the Committee of Experts went too far when it suggested that a government which did not agree with its interpretation would have to obtain a legally binding opinion from the International Court of Justice, [since] this obligation was not within the spirit of article 37 of the ILO Constitution***.	ILO, Record of Proceedings, ILC 78th Session, 1991, p. 24/7, para. 33.
German Democratic Republic	*In regard to the Committee of Experts' conclusion that the workers did not have the right to strike, it should be recalled that no mention was made of the right to strike in any of the provisions of the Convention.* ***Further, the Committee of Experts had noted that the prohibition of strikes was not in conformity with Article 3 of the Convention. This conclusion was not based on the text of the Convention but rather should be considered as a personal interpretation of the Committee of***	ILO, Record of Proceedings, ILC 72nd Session, 1986, pp. 31/33 - 32/33.

	Experts. Such a method of work should be rejected because it was in direct contradiction with the principle which required governments to report upon the instruments they had ratified. Any other conclusion would lead to uncertainty and legal insecurity which would dissuade new ratifications because States would be unable to know in advance the interpretations which would be given to the Conventions. Further, such interpretations were made by bodies like the Committee of Experts, which had no competence in these matters. *The case of the Syrian Arab Republic did not constitute the only case where the Committee of Experts had shown an intolerant attitude. This made it even more important for measures to be undertaken for the démocratisation of the methods of work in regard to supervision.* ***In conclusion, the speaker stated that the Committee of Experts should adopt a more realistic approach in the examination of this case and he welcomed other voices which he had heard to the same effect during the course of this discussion.***	
Germany	*The Committee notes the Government's indication that in its decision of 12 June 2018 (Case No. 2 BvR 1738/12), the Federal Constitutional Court held, contrary to the 2014 judgment of the Federal Administrative Court, that: (i) for civil servants, irrespective of their duties, the strike ban amounts to an independent traditional principle of the career civil service system (Berufsbeamtentum) within the meaning of Article 33(5) of the Basic Law, which justifies an overriding of freedom of association; (ii) this is closely linked to the civil service principle of alimentation (Alimentationsprinzip), according to which civil servants are paid salary commensurate with the civil service position, and also to the duty of loyalty, the principle of lifetime employment and the principle that the legal relationship under civil service law (including remuneration) must be regulated by the legislature; (iii)* ***there is no need for an express legal provision concerning a strike ban for civil servants; (iv) the strike ban for civil servants in Germany is consistent with the principle of interpreting the Basic Law in a manner compatible with international law, as well as with guarantees of the ECHR, as there is no identifiable conflict between German law and Article 11 of the ECHR; and (v) regardless of the question of whether the strike ban for civil***	ILO, CEACR observation, 2021.

	servants actually represents an encroachment on Article 11(1) of the ECHR, it would in any case be justified either under the first or the second sentence of Article 11(2) based on the particularities of the German system of the career civil service.	
Greece	*The Committee takes note of the Government's reply to the comments made by the GGCL. In particular, the Committee notes that* ***the Government indicates that the limitations provided for in Act 1264/82 on the right of workers employed in public or utility undertakings to go on strike do not violate the Constitution nor international conventions. The Government points out that these limitations are also provided for in the majority of foreign laws and are accepted by foreign jurisprudence and practice. Furthermore, the Government indicates that article 31 of the European Social Charter provides that, by way of exception, limitations can be imposed on the rights established by the Charter (including the right to strike), provided that these limitations are necessary in a democratic society for the safeguarding of the respect for the rights and freedoms of other individuals or for the protection of public order, national security, public health or the virtuous morals.***	ILO, CEACR observation, 1998.
Norway	***While noting the Government's statement in its report that the interference by the authorities in the right to strike in order to restrict or prohibit it is compatible with the Convention in the event that the strike is liable to cause considerable economic losses with a harmful effect on society or third parties and that the oil industry should, in this respect, be considered to be an essential service,*** *the Committee recalls that the principle whereby* ***the right to strike may be limited or prohibited in essential services would become meaningless if the legislation defined essential services too broadly.*** *The Committee has already indicated that the prohibition upon the right to strike should be confined to services whose interruption would endanger the life, personal safety or health of the whole or part of the population, or in a situation of acute national crisis.*	ILO, CEACR observation, 1992.
Pakistan	*A Government representative of Pakistan stressed the importance of tripartism and dialogue within the ILO. He asked whether an international norm recognized by one legal instrument, such as the right to strike within the International Covenant on Social, Economic and Cultural Rights, should be recognized by others without*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 16, para 62.

	further consideration. As a human rights standard, the right to strike should be considered as a labour standard. ***In terms of implementation and supervision, he said that the supervisory system guided the implementation of such standards, but that the stipulations made by supervisory bodies were advisory, and they were unable to create new obligations.*** *He expressed the hope that the current dispute could be resolved through negotiation and dialogue.*	
Russian Federation	***The Committee notes that the Government reiterates that the right to strike of the following categories of workers is restricted: workers of the federal courier communications and the municipal employees, as well as certain categories of railway workers.*** *The Government considers that the restrictions imposed on the right to strike of certain categories of workers do not contradict international standards. It refers in this respect to Article 8(2) and (1)(c) of the International Covenant on Economic, Social and Cultural Rights and points out that, under these provisions, a State may impose prohibition on the exercise of the right to strike by members of the armed forces, the police, or the administration of the State, as well as other persons, if necessary, in a democratic society in the interests of national security, public order, or for the protection of the rights and freedoms of others. The Government stresses that nothing in this Article shall authorize States parties to Convention No. 87 to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention*	ILO, CEACR observation, 2012.
Socialist countries[1]	*25. As concerned the terms of reference of the Committee of Experts and its relation to other ILO bodies, the Government members of Bulgaria, the Byelorussian SSR, Cuba, Czechoslovakia, the German Democratic Republic, Hungary the Islamic Republic of Iran, the Syrian Arab Republic, the Ukrainian SSR and the USSR, and the Workers' members of Ecuador and of the USSR, considered that it was necessary to redefine the roles of the Office, of the Committee of Experts, of the Conference Committee and of the Conference in the supervisory machinery, making clear the supremacy of the Conference.* *...*	ILO, Record of Proceedings, ILC 73rd Session, 1987, p. 24/6, para 25.

[1] Bulgaria, the Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, the German Democratic Republic, Hungary, the Islamic Republic of Iran, the Syrian Arab Republic and the Ukrainian Soviet Socialist Republic.

	However, ***the Committee of Experts has converted itself into a kind of supra-national tribunal, interpreting national laws and Conventions, although the interpretation of national laws is the responsibility of courts and other national bodies, and the interpretation of Conventions is to be left to the International Court of Justice.*** *…* *The Government member of the German Democratic Republic stated that Conventions should be interpreted only by bodies competent to do so, and in such a way as to ensure a high degree of legal reliability. Only the text of a Convention is valid, and it is upon the text itself that a ratifying country must be able to rely*.	
Sweden	*[O]nly one body – the International Court of Justice – could make authoritative interpretations of international labour Conventions. … [T]he role of the International Court of Justice as the ultimate arbiter should always be borne in mind. A Convention had to be interpreted in line with the principles laid down in the Vienna Convention on [the Law of] Treaties (1969).* ***… [T]his year's report of the Committee of Experts unfortunately contained a number of overinterpretations, especially regarding basic human rights Conventions and in particular Convention No. 87.***	ILO, Record of Proceedings, ILC 76th Session, 1989, p. 26/6, para. 21.
Switzerland	***The Government also indicates that the Committee's interpretation of the Convention's provisions on the right to strike is not authoritative and was not taken up by the Conference Committee. […]*** *2. With regard to the prohibition of the right to strike for public officials of some cantons and the obstacles to the exercise of this right which are said to exist in some communes, the Committee noted previously that the results of consultations with the cantons had been sent to a committee of the National Council, and asked the Government to provide information on the results of these consultations to enable it to examine the legislation and practice. The Committee notes that, according to the Government, the results of the consultation were indeed forwarded to a parliamentary committee charged with considering a parliamentary initiative filed in 1991 seeking ratification by Switzerland of the European Social Charter. In the Swiss parliamentary system, a parliamentary initiative is dealt with directly by Parliament and the Government assists Parliament with specific tasks.* ***Here, the***	ILO, CEACR Direct Request, 2006.

	matter was examined in the light of Article 6(4) of the European Social Charter which refers to the right to strike, and not the Convention, which says nothing on the subject. *In accordance with the principle of the separation of powers and in view of the fact that, in Switzerland, parliamentary initiatives are dealt with directly by Parliament and not by the Government, the Government has no authority to disseminate a text intended for a parliamentary committee.* ***The Government wished to point out*** *that the Swiss Federation of Trade Unions has asked that the Tripartite Committee on ILO Matters discuss the situation regarding the right to strike in the cantons and communes in the light of article 28 of the Federal Constitution and* ***that it is not in a position to be seized of the matter because recognition of the right to strike in general and for the personnel of the cantons and communes in particular does not derive from the Convention. […]***	
Tunisia	***His Government was not in agreement with the Committee of Experts concerning the interpretation which the Committee had given to the concept of essential services.***	ILO, Record of Proceedings, ILC 69th Session, 1983, p. 31/13-31/14, para 62.
Turkmenistan	*It further considered that in so far as compulsory arbitration, including through judicial proceedings, prevents strike action, it was contrary to the right of trade unions to organize freely their activities and could only be justified in the public service for public servants exercising authority in the name of the State or in essential services in the strict sense of the term, that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee had requested the Government to take the necessary measures, in consultation with the social partners, in order to ensure the application of this principle in law and in practice****. The Committee notes that the Government considers the Committee's request to be beyond the scope of the Convention*** *and reiterates the information it had previously provided. The Committee recalls that the matters raised fall within its well-recognized mandate to undertake an impartial and technical analysis of how the Convention is applied in law and practice for all ratifying member States and once again requests the Government to indicate all measures taken or envisaged to ensure the application of the abovementioned principle in law and in practice.*	ILO, CEACR Direct Request, 2016.

Trinidad and Tobago	***The Committee notes from the Government's latest report that the Tripartite Committee established to review the Industrial Relations Act has reviewed these sections and has agreed that these provisions are in keeping with the cultural and legislative environment of the country and are, therefore, in no way objectionable to the parties in the collective bargaining process. The Tripartite Committee does not view these provisions as a deterrent to the Government's conformity with Convention No. 87.***	ILO, CEACR Observation, 2000.
Venezuela	*The Government member of the Bolivarian Republic of Venezuela, speaking on behalf of the Government members of the Group of Latin America and Caribbean Countries (GRULAC), reiterated his firm commitment to the ILO supervisory mechanisms but expressed his concern about the work and the report of the Committee of Experts.* ***In relation to the working methods of the Committee of Experts, he drew attention to the fact that the mandate of the Committee of Experts did not include resolving controversies, issuing judgements on conflicting demands of interested parties, issuing injunction measures, resolutions, judgements, decrees or awards, and its opinions or comments were not mandatory. … He also expressed the view that the Committee of Experts interpreted Conventions which was delegated to the International Court of Justice in the Constitution*** *…* *He also expressed his concern, as stated by GRULAC,* ***that the Committee of Experts was exceeding its mandate*** *and pointed out that corrective measures should be adopted to give the Committee of Experts ways and means of strengthening its credibility and ensuring full respect for the reports it produced.*	ILO, Record of Proceedings, ILC 99th Session, 2010, p. 70, paras 63-64.

ANNEX D

Table of Countries Supporting Addressing the Right to Strike through Standard Setting

The following table provides a compilation of excerpts from governments' statements delivered on various occasions (i.e. sessions of the Governing Body and International Labour Conference) or from documents addressed to the Office, which show governments' support for solving the dispute on the right to strike and ILO Convention No. 87 (C87) through standard setting. This call lies on the premise that such governments do not support the view that the right to strike is covered by C87 and therefore that there exists a normative gap in the ILO body of standards which, by definition, can only be filled through the adoption of new standards on the subject.

The relevant passages of the statement or document concerned are indicated in **bold** below.

Country	Excerpts	Source
Africa Group[1]	*Speaking on behalf of the Africa group, a Government representative of **Kenya** said that his group was **in favour of giving consideration to all possible options, including tripartite discussions on the various issues at stake, either through the Governing Body, as an ILC agenda item or a dedicated session of the Committee on the Application of Standards.*** *Prevailing circumstances were not conducive to establishing an in-house tribunal and referral to the ICJ should be a last resort, after all issues had been exhausted through tripartite dialogue and consultations between the parties. His group therefore endorsed point (d) of the draft decision to **reactivate tripartite discussions to resolve outstanding issues relating to the functioning of the supervisory system***	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 21, para 73.
Brazil	*Mr. Aur (Government, Brazil) stated that the governments of the Americas were virtually unanimous in advocating the selection of only one additional technical item in L994. The Government of Brazil- **favoured*** (as standard setting item) ***the selection of item 5*** (on settlement of labour disputes, including the right to strike)	ILO, Minutes of the 254th Session, GB.254/PV(Rev.), November 1992, p. I/4.
China	*Ms. Zhang (Government, China) believed that all the topics proposed by Director-General were important but gave preference to items 3 and 5. [...] The settlement of labour disputes was an important basis for social stability and economic development, in particular in countries undergoing structural adjustment. **A tripartite exchange of views** in the*	ILO, Minutes of the 254th Session, GB.254/PV(Rev.), November 1992, p. I/5.

[1] Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Swaziland, Tanzania, the United Republic of, Togo, Tunisia, Uganda, Zambia, Zimbabwe.

	Conference would consequently promote stability and prosperity in member States. ***Should the Governing Body decide to choose one item only, the Government of China's preference would go to item 5,*** *but would be ready to accept any item on which consensus could be found.*	
Colombia	*On the basis of the above-mentioned provisions****, I request that the proposal to adopt an international Convention concerning the right to strike be submitted for consideration to the Governing Body*** *with a view to its inclusion in the agenda of the next session of the International Labour Conference*	Letter dated 9 October 1991 from the Minister of Labour and Social Security of Colombia to the Director-General, Agenda of the 81st (1994) Session of the Conference, Annex I.
Cyprus	*Considered that that the position of a number of governments on this matter was that they could not relinquish the sovereignty of the State.* ***His own conclusion was that the Convention on freedom of association was now inadequate as far as public servants were concerned and that they should be re-examined with a view to up-dating them.***	ILC, Record of Proceedings, 58th Session, 22 June 1973, p. 544, para 27.
Eswatini	*A Government representative of Eswatini said that the right to strike had never been challenged at the national level in Eswatini. However, he recognized that the long-standing international dispute had serious repercussions on the work of the ILO's supervisory bodies. The urgency of current efforts to resolve the interpretation dispute went against the ILO's ideals of social dialogue and consultation. Furthermore,* ***making a decision within the Governing Body excluded many who would be affected by the outcome of the discussion, especially those Member States that had ratified Convention No. 87. He urged the Governing Body to utilize all available options, including tripartite consultations****, and defer its decision to March 2024.*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 15, para 56.
Germany	*He referred in this context in particular to item (3) concerning the right to strike, and suggested that* ***in the future more attention be given to the fields which needed to be equipped with international labour standards.***	ILO, Minutes of the 253rd Session, GB. 253/PV(Rev.), 28 May 1992, p. I/15.
India	*It supported the continuation of a tripartite process, considering* ***that decisions regarding the Organization should be taken by ILO constituents.*** *The ILC was the supreme forum for decisions on any matter pertaining to the world of work and it had the authority to amend the standards it had adopted.* ***Disagreement on the interpretation of any Convention by the Committee had to be brought back to the ILC.*** *An in-house tribunal*	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 27, para 106.

	and referral to the ICJ would add to multiplicity without improving clarity. ***Either a specific item on the ILC agenda or a discussion in the Conference Committee on the Application of Standards would provide the ideal means of reaching a solution.***	
	A Government representative of India said that the fundamental disagreement had global implications and far-reaching consequences. As such, it would be neither equitable nor fair for the Governing Body to take the decision on a referral to the ICJ. ***The discussion should be widened to allow all Members of the ILO to participate, at the International Labour Conference.*** *She therefore supported the statement made by the Government representative of Sudan on behalf of a group of countries.*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 26, para 94.
Malta	*Mr. Cilia-Debono (Government, Malta) proposed that one item be selected for standard setting. His preference went to items 2 and 5. Good industrial relations were essential for economic and social progress and the settlement of labour disputes created the institutional climate for protecting workers' rights. Consequently this topic should be given priority.*	ILO, Minutes of the 254th Session, GB. 254/PV(Rev.), November 1992, p. I/6.
Morocco	*The speaker gave second priority to the question of the right to strike.* ***Since no instrument existed on the subject, there was a legal gap which had to be filled.*** *Though the right to strike was granted to workers in a large number of countries, only a few countries had fixed the modalities of its implementation.* ***It was essential to define the notion of the right to strike, since there was no such thing as an absolute right to strike. It was therefore important to define its limits, which concerned in particular the essential services.*** *Furthermore, it was important to discuss the question in conjunction with that of the lockout and within the framework of the settlement of labour disputes. An initial general discussion could later be followed up by completing the existing standards on labour disputes by additional clauses on strike and, lockout.*	ILO, Minutes of the 253rd Session, GB. 253/PV(Rev.), 28 May 1992, p. I/12- I/13.
Nigeria	*Mr. Eashim (Government, Nigeria) hoped that a compromise could be found in spite of the diversity of the interests which determined the choice of the topics.* ***His preferences were, in order of priority, item 5, because economic difficulties resulted in an increased need for the settlement of labour disputes****; item 1 which would help define the basic requirements of Labour inspection; and item 4 because private employment agencies played an important role in the labour market, especially at times of high unemployment.*	ILO, Minutes of the 254th Session, GB. 254/PV(Rev.), November 1992, p. I/4.

Russian Federation	*The two sets of subjects proposed related to occupational safety and health on the one hand and the settlement of labour disputes on the other. The latter was of more interest to Russia, which so far had only limited experience in the settlement of labour disputes. [...]* ***As to the subjects proposed in the Office paper, his Government's order of priority went to items (3)*** *and (6),* ***the right to strike*** *and tripartite consultation, followed by items (2) and (5), that is the revision of the list of occupational diseases appended to Convention No. 121 and the settlement of labour disputes, and finally to items (4) and (1), the role of private employment agencies and the extension of Convention No. 81 to activities in the non—commercial services sector.*	ILO, Minutes of the 253rd Session, GB. 253/PV(Rev.), 28 May 1992, p. I/14 - I/15.
Sweden	*Not all aspects of Conventions were entirely clear, however, and one grey area surrounded the right to strike, which was not mentioned in Conventions Nos. 87 and 98 and had not been covered in the preparatory work of the International Labour Conference when it adopted them. It was universally recognised that there could be no trade union rights without the right to strike. However, in some countries essential services were defined rather strictly; in others governments retained the right to impose compulsory arbitration, as in Norway. In this case, the Norwegian oil workers belonged to a union that was not a party to national collective bargaining but preferred to resort to strike action in a key economic sector in order to obtain better benefits.* ***The case as a whole underlined the usefulness of including an item on the Conference agenda concerning the settlement of labour disputes, as proposed by Mr. Oechslin.***	ILO, Minutes of the 251st Session, GB.251/PV(Rev.), 12 November 1991, p. III/8.
Türkiye	*Furthermore, the Permanent Mission welcomes the request for a special meeting addressing the inclusion of a standard-setting item regarding the right to strike in the agenda of the 112th Session of the International Labour Conference which can play a crucial role in addressing this long-lasting dispute through constructive social dialogue within the ILO.* ***The primary objective of such a special meeting should be to facilitate the endorsement of a Protocol associated with Convention No. 87, encompassing the topics of the right to strike and broader industrial actions. Therefore, this Protocol would establish clear and authoritative guidelines and serve as the definitive instrument for delineating precise and authoritative parameters governing the scope and limitations of the right to strike within the overarching framework of Convention No. 87, thereby ultimately resolving the ongoing disagreement.***	Letter dated addressed from the Permanent Mission of Turkey to the ILO, 25 September 2023.

Venezuela	***She supported the proposal of the Minister of Labour and Social Security of Colombia*** *in view of the fact that the relevant ILO instruments****, in particular Conventions No. 87 and No. 98, made no mention of the right to strike****. However, a trade union that had the right to negotiate without having the right to strike did not really enjoy freedom of association****. An international instrument on the right to strike was therefore essential.*** *In addition to this question she gave her support to items (2) on occupational diseases and (6) on tripartite consultation.*	ILO, Minutes of the 253rd Session, GB. 253/PV(Rev.), 28 May 1992, p. I/16.

ANNEX E

IOE Comments under Article 23.2 of the ILO Constitution on the Application in Law and Practice of ILO Convention 87

A powerful
and balanced
voice for business

Geneva, 1 September 2023

Committee of Experts on the Application
Of Conventions and Recommendations (CEACR)
International Labour Organization
Route de Morillons 4
1211 Geneva 22

Comments under Article 23.2 of the ILO Constitution

Application in law and practice of Convention 87 in the following countries:

***Algeria, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belarus, Belize, Chad, Congo, Djibouti, Dominica, Ecuador, Equatorial Guinea, Gabon, Gambia, Guatemala, Guinea, Haiti, Hungary, Indonesia, Jamaica, Kazakhstan, Kiribati, Liberia, Luxembourg, Madagascar, Netherlands: Sint Maarten, Nicaragua, North Macedonia, Pakistan, Panamá, Paraguay, Perú, Philippines, Poland, Romania, Russian Federation, Rwanda, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Senegal, Serbia, Seychelles, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Timor Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Kingdom, United Kingdom (Anguilla), United Kingdom (Jersey), United Kingdom (Montserrat), Tanzania, Uruguay, Uzbekistan, Venezuela, Yemen, Zambia and Zimbabwe*.**

I. INTRODUCTION

The International Organisation of Employers (IOE) hereby presents its comments to the CEACR on the application in law and in practice of the ILO Freedom of Association and Protection of the Right to Organise Convention (C87) in the ILO member States listed above.

Like in previous years, the IOE respectfully expresses its strong disagreement with the Experts' detailed, albeit non-binding assessments of the application of the "right to strike" in the context of C87 by ILO member States that have ratified this Convention. Accordingly, the IOE also firmly disagrees with the CEACR recommendations to governments to bring their law and practice into conformity with these detailed non-binding assessments on the scope and conditions of the "right to strike" in the context of Convention 87 as set out in the 2023 CEACR Report (*See Annex I of this submission*).

II. **2023 CEACR REPORT**

In fact, the IOE noted the following in the 2023 CEACR Report:

- Out of the CEACR's 61 observations on C87, **49** (or around 80 %) deal partly or wholly with the "right to strike".
- Out of the 42 CEACR's 2023 direct requests to governments under C87, **35** (or around 83 %) deal with the "right to strike". Out of these 35 direct requests, 13 deal exclusively with the right to strike.
- While for some countries, the comments on the "right to strike" are only addressed in an observation and for others only in a direct request, for most other countries, comments on the "right to strike" are addressed both in observations and direct requests.
- In total, the CEACR made this year comments (observations and/or direct requests) on C87 for 83 countries; the comments (observations and/or direct requests) for **64** of these 83 countries (or 77 %) concerned the "right to strike".

The scope and conditions of the "right to strike" by ratifying Member States thus once again remains a prominent, if not the main theme in the CEACR's supervision of C87. (*See Annex III of this Submission*)

The IOE would like to reaffirm its view that C87 does not contain any rules on the scope and conditions of the "right to strike". In fact, the drafters of C87 intentionally excluded such a right in the scope of the convention. The IOE recalls the outcomes of the tripartite meeting "*concerning the question of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in relation to the right to strike and the modalities and practices of strike action at national level*" of February 2015. The Government Group to this tripartite meeting adopted a statement in which it, while recognizing "*that the right to strike is linked to freedom of association which is a fundamental principle and right at work of the ILO*", also noted "*that the right to strike … is not an absolute right*" and that ***"[t]he scope and conditions of this right are regulated at the national level." (emphasis added*)** It is important to note that this statement, which was later confirmed by the Government Group in the ILO Governing Body in March 2015, does not in any way mention that the scope and conditions of the "right to strike" are regulated in C87.

Furthermore, the IOE would like to recall the applicable interpretation rules of the Vienna Convention on the Law of Treaties, 1969 (VCLT), namely Articles 31 and 32. In line with these provisions, a treaty should be interpreted "*in accordance with **the ordinary meaning** to be given to the terms of the treaty in their context and in the light of its **object and purpose.**"* Moreover, "*Recourse may be had to supplementary means of interpretation, including **the preparatory work of the treaty and the circumstances of its conclusion …***". The inescapable conclusion from the application of these interpretation rules is that **C87 does not contain any specifications regarding the scope and conditions of the "right the strike".**

The IOE would also request the CEACR to take due note of the relevant unequivocal decisions of the tripartite International Labour Conference (ILC), which has the sole authority to set ILO standards. It must be emphasized here that not only the concrete content of the Conventions and Recommendations adopted by the ILC must be respected, but also **the deliberate**

<u>omission of certain topics from the Conventions and Recommendations</u>. As is clear from the standard-setting history of C87, but also the standard-setting history of other instruments such as C98, C151 and C154, the possibility of regulating a "right to strike" was indeed considered by the ILC, but ultimately rejected in each single instance for various reasons. **The ILC alone determines the scope of the standards it adopts**.

Finally, the IOE would like to recall the mandate of the CEACR which is to provide an "***impartial and technical analysis*** *of how the Conventions are applied in law and practice by Member States*" (**emphasis added**). In situations where the CEACR identifies a possible legal gap in a Convention, the CEACR would need to bring this to the attention of the Governing Body to enable it to take a decision on whether or not to fill the gap, through standard-setting or other means of action. In our view, this also applies to any gap that the CEACR perceives for C87. By developing extensive interpretations on the right to strike in its supervision of C87, the CEACR has exceeded its mandate as defined by the Governing Body.

For all these reasons, we respectfully consider that any CEACR requests to governments to align their law and practice with its detailed interpretations on the "right of strike" have no valid basis in C87. The conclusions of the Committee on the Application of Standards of the International Labour Conference (CAS) purposively and unambiguously exclude any requests to governments related to the "right to strike". It should be noted that CAS conclusions are adopted by the ILC and are thus pronouncements that reflect the will of ILO's supreme body. Their contents, including the intended absence of recommendations on the "right to strike" in CAS conclusions on C87, must be duly followed and considered in any Office follow-up measures.

The IOE also wishes to emphasise that Employers and Workers in the CAS have consistently made efforts to find a *modus operandi* for keeping the regular supervisory process functional and credible despite their expressed divergence of views on this important issue.

Already in 2015, the Government Group expressed its readiness to discuss the exercise of the right to strike as follows:

> "*We are ready, right from this Tripartite Meeting, to consider discussing, in the forms and framework that will be considered suitable, the exercise of the right to strike. We believe that the complex body of recommendations and observations developed in the past 65 years of application of Convention 87 by the various components of the ILO supervisory system constitutes a valuable resource for such discussions, which will also be informed by the multi-faceted regulations that States and some regions have adopted to frame the right to strike*."

Along the same lines, on multiple occasions, including during the March 2023 Governing Body session, the Employers manifested their willingness and commitment to engage in a constructive dialogue to find a solution to this long-standing matter. While the Employers opposed the proposal of referring the interpretative dispute to the ICJ or an in-house tribunal, they put forward alternative solutions to address the matter within the framework and with the means of the organisation, in particular an ILO tripartite technical meeting or a dedicated discussion at the ILC on the "right to strike" or more broadly, on industrial action. Such a

meeting or discussion within the ILC or other existing ILO means could address and define a roadmap for further action on the right to strike and industrial action in a comprehensive manner and thus not only prepare a way forward for a solution of the present interpretation dispute but also develop proposals for giving more room for this important subject in ILO research and policy work.

The IOE would like to stress that a tripartite technical meeting or a discussion at the ILC would ensure that:

i. all ILO constituents can actively engage in the process;
ii. decisions are based on a wide majority or consensus; and
iii. outcomes are universally relevant and accepted.

We trust that, as a result of our continuous efforts to find a solution to the issue of the "right to strike", these proposals will be concretely explored. While we are firmly convinced that no bodies but the ILC or ILO meetings in a tripartite setting can solve the dispute in a sustainable manner, we nonetheless believe that the CEACR has a crucial role in supporting this. The CEACR, should reflect on its impartiality, experience and expertise and, **together with the Office, actively facilitate a way forward on this critical issue that has a chance of being broadly supported by ILO's tripartite constituents.**

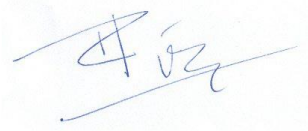
III. CONCLUSION

The present submission by IOE constitutes the carefully weighed opinion of the Employers' Group with regard to the CEACR's views on the issue of the scope and modalities of the "right to strike" in the context of C87.

The IOE respectfully requests the CEACR to forward these comments to the governments concerned and to publish them on the ILO website, including in the NORMLEX Database, as well as in the printed and electronic versions of the forthcoming CEACR Report. This will help increase the transparency of the work of the ILO supervisory mechanisms and further stimulate genuine tripartite dialogue at the national level.

Finally, the IOE expresses its appreciation to the CEACR for its valuable contribution to the international labour standards regular supervisory system over the years. The IOE would also like to reaffirm its willingness and full commitment to working constructively with the CEACR to make the supervisory system even more transparent, relevant and effective.

Kind regards,



Roberto Suarez Santos
Secretary General

ANNEX I
REFERENCES TO THE "RIGHT TO STRIKE" IN OBSERVATIONS OR DIRECT REQUESTS ON CONVENTION 87 IN THE 2023 REPORT OF THE CEACR

Country	**Comments**
Algeria	Direct request dealing with right to strike issues.
Antigua and Barbuda	Direct request dealing exclusively with right to strike issues.
Bahamas	CEACR recalls that for a number of years it has requested the amendment of legislation to bring national provisions in conformity with Convention 87: • Section 20(3) of the IRA, so as to ensure that trade unions can conduct strike ballot without supervision by the authorities; • Sections 73, 76(1) and 77(1) of the IRA providing for compulsory arbitration to bring an end to a collective labour dispute and a strike; • sections 74(3), 75(3), 76(2)(b) and 77(2) of the IRA, so as to ensure that no penal sanctions may be imposed for having carried out a peaceful strike; • section 75, to use strike action or protest action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members. CEACR notes the Government's indication that the National Tripartite Council is continuing to review the IRA and that priority has been given to sections 20(2), 74(3), 75(3), 76(2)(b) and 77(2) of the IRA in the reviewing exercise and that it is examining the possibility of repealing section 39 of the IRA. ***CEACR urges the Government to take all necessary measures, in consultation with the social partners, to amend its legislation in the near future, so as to ensure its full conformity with the Convention without further delay, and requests the Government to provide information on all developments in this respect.***
Bangladesh	Serious episodes of violence against strikers alleged by ITUC. ***CEACR requests the Government to review all the allegations of violence, harassment and intimidation with the TU-ILS with a view to carrying out the necessary investigations to determine those responsible, punishing the guilty parties and preventing the repetition of any such acts. CEACR requests the Government to keep it informed of all septs taken in this regard.***

	In addition, CEACR regrets that the Government has not provided any further information in relation to the numerous sections of the Bangladesh Labour Act for which CEACR has requested amendment repeal or further information including: • excessive restrictions on the right to strike (sections 211(3)-(4) and (8) and 227(c) accompanied by severe penalties (sections 196(2), 291(2)-(3) and 294-29. CEACR also reiterated its deep regret that most of the changes to the Export Processing Zone Labour Act (ELA) of February 2019 that it had requested have still not been addressed. It therefore once again emphasized the need to further review the ELA to ensure its conformity with the Convention regarding the following matters, among others: • (xii) broad definition of unfair labour practices, which also include persuasion of a worker to join a WWA during working hours or commencement of an illegal strike, and imposition of penal sanctions for their violation (sections 116(2)(a) and (f), 151(2)–(3) and 155–156); • (xiii) power of the Conciliator appointed by the Zone Authority to determine the validity of a strike notice, without which a lawful strike cannot take place (section 128(2) read in conjunction with section 145(a)); • (xiv) possibility to prohibit strike or lockout after 30 days or at any time if the Executive Chairman is satisfied that the continuance of the strike or lockout causes serious harm to productivity in the Zone or is prejudicial to public interest or national economy (section 131(3)–(4)); • (xv) possibility of unilateral referral of a dispute to the EPZ Labour Court which could result in compulsory arbitration (sections 131(3)–(5) and 132, read in conjunction with section 144(1)); • (xvi) prohibition of strike or lockout for three years in a newly established enterprise and imposition of obligatory arbitration (section 131(9)); • (xvii) possibility of hiring temporary workers during a legal strike in cases where the Executive Chairman of the Zone Authority is satisfied that complete cessation of work is likely to risk causing serious damage to the machinery or installation of the industry (section 115(1)(g)); and • (xviii) excessive penalties, including imprisonment, for illegal strikes (sections 155 and 156). ***While taking due note that the Government intends to use the period from 2023 to 2025 to review the impact of the ELA, CEACR is deeply concerned that an exceptionally large number of provisions still need to be repealed or substantially amended to ensure its conformity with the Convention. CEACR urges the Government to expedite the review of the***

	ELA, in consultation with the social partners, so as to address the issues highlighted above and provide EPZ workers with all the rights guaranteed in the Convention. CEACR requests the Government to report in detail on the steps taken in this regard.
Barbados	Direct request dealing the right to strike
Belarus	*CEACR recalls that it had been requesting the Government for a number of years to amend sections 388(1), (3) and (4), 390, 392 and 393 of the Labour Code restricting the right to strike,* section 42 (7), which expressly allows an employer to dismiss/terminate a labour contract with a worker who is absent from work in connection with serving an administrative penalty in the form of an administrative arrest. ***CEACR regrets that the Government merely reiterates its previous view that the national legislation is in conformity with the international labour instruments; that in Belarus, according to section 388 of the Labour Code, a strike constitutes a temporary and voluntary refusal by workers to perform their employment duties (fully or in part) for the purpose of settling a collective labour dispute; and that strikes of political nature are forbidden. CEACR recalls since the maintaining of the employment relationship is a normal consequence of recognition of the right to strike, its lawful exercise should not result in striking workers being dismissed or discriminated against (2012 General Survey on the fundamental Conventions, paragraph 161). CEACR is therefore bound to urge the Government to take measures to revise the above-mentioned legislative provisions, which negatively affect the right of workers' organizations to organize their activities in full freedom, and to provide information on all measures taken or envisaged to that end.***
Belize	CEACR in previous comments has requested the Government to amend: • Settlement of Disputes in Essential Services Act 1939 (SDESA), which empowers authorities to refer a collective dispute to compulsory arbitration to prohibit a strike or to terminate a strike in the banking sector, civil aviation, port authority, postal services, social security scheme and the petroleum sector, i.e. services that are not essential in the strict sense of the term. ***CEACR notes with regret the Government's indication that the SDESA has not been amended. CEACR, therefore reiterates its long-standing request and urges the Government to provide information on the steps taken, in consultation with the social partners, to amend the Schedule to the SDESA in order to ensure that compulsory arbitration or a prohibition on strikes is permitted only in services that are essential in the strict sense of the term – that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population.***

Chad	Report not received (deep concern). Previous comments are repeated. CEACR notes ITUC observations alleging violations of trade unions in law and practice on: • Legal procedures governing the right to strike; • Determination of essential services. ***CEACR requests the Government to provide its comments in this regard.*** In addition, there is a direct request dealing exclusively with right to strike issues.
Comoros	Direct request dealing with right to strike issues.
Congo	Direct request dealing exclusively with right to strike issues.
Djibouti	CEACR repeats previous comments: • President of the Republic has broad powers to requisition public servants (section 23 of Decree No. 83-099/PR/FP of 10 September 1983). ***CEACR trusts that the Government will take all measures necessary to amend the above provisions and will report on specific progress in its next report.*** In addition, there is a direct request dealing with right to strike issues***.***
Dominica	Report has not been received (deep concern). CEACR repeats previous comments. CEACR has been raising issues concerning certain sections of the Industrial Relations Act (Act 18 of 1986) on compulsory arbitration which unduly restrict the right of workers' organizations to organize their activities in full freedom and to formulate their programmes. The Government has been requested to make the following amendments to the Act: (i) exclude the banana, citrus and coconut industries as well as the port authority, from the schedule of essential services annexed to the Act, which makes it possible to stop a strike in these sectors by compulsory arbitration, and (ii) amend sections 59(1)(b) and 61(1)(c) of the Act, which empower the Minister to refer disputes to compulsory arbitration if they concerned serious issues in his or her opinion. ***Not having received any additional observations from the social partners, nor having at its disposal any indication of progress on these pending matters, CEACR refers to its previous observation adopted in 2011 and urges the Government to provide a full reply thereto. To this end, CEACR recalls that the Government may avail itself of the ILO's technical assistance. CEACR expects that the Government will make every effort to take the necessary action in the near future.***

Ecuador	CEACR recalls that the authorities should not resort to arrest and detention measures in cases of organization or participation in peaceful strike. CEACR previously asked the Government to amend: • section 346 of the Basic Comprehensive Penal Code, which provides for a term of imprisonment of one to three years for stopping or obstructing the normal provision of a public service, so as to prevent the imposition of criminal penalties on workers engaged in a peaceful strike. . CEACR notes that according to the Government, no progress has been made in this regard and regrets that no action has been taken (…). ***CEACR strongly urges the Government to take the necessary measures to ensure that section 346 of the Basic Comprehensive Penal Code is amended in the manner indicated and, until such measures are taken, to ensure that this provision is not used to criminalize social protest.*** In addition, there is a direct request dealing with right to strike issues.
Equatorial Guinea	Report was not received since 2007. CEACR repeats previous observations (deep concern). CEACR has formulated longstanding recommendations to bring the Labour legislation into conformity with the Convention concerning limitations that unduly restrict (...) the right to strike and the determination of essential services. ***Not having at its disposal any indication of progress on these pending matters, despite the technical assistance that the Office provided to the country on several occasions, CEACR refers to its previous observation adopted in 2020 and urges the Government to provide a full reply thereto.***
Gabon	Report was not received. CEACR repeats previous observations (concern). In its previous comments, further to the observations of the International Trade Union Confederation (ITUC) relating to restrictions on the right to strike in the public sector on the grounds of ensuring public safety, CEACR asked the Government to provide information on the number of strikes called in the public sector as a whole, the individual sectors concerned and the number of strikes prohibited on the grounds of a possible disruption of public order. CEACR notes the Government's indication that trade unions within a number of government departments, including customs, taxation, higher education, national education, health and social affairs,

	have availed themselves of their right to strike. Moreover, the Government indicates that the National Congress of Education Sector Unions (CONASYSED) held its latest strike at the Martine Oulabou Public School without being removed from the premises and without the right to strike being prohibited. ***While taking note of the information provided by the Government on examples of strikes called in the public sector, CEACR requests once again that the Government provide detailed information on the number of strikes that have been called in the public sector, and the number of strikes prohibited on the grounds of a possible disruption of public order. CEACR expects that the Government will make every effort to take the necessary action in the near future.*** In addition, there is a direct request dealing with right to strike issues.
Gambia	Direct request dealing with right to strike issues.
Guatemala	CEACR recalls that for many years it has been asking the Government to take measures to amend different legislative provisions concerning the following issues: • Majority required to call a strike (section 241 of the Labour Code); • Imposition of compulsory arbitration in non-essential services and other obstacles to the right to strike (Decree No. 71-86, as amended by Legislative Decree No. 35-96 of 1996); • Labour, civil and criminal penalties in the event of a strike by public officials or workers in certain enterprises (sections 390 (2) and 430 of the Penal Code and Decree No. 71-86); **CEACR** ***recalls that in its previous comments it noted that: ((i) the tripartite agreement concluded in March 2018 on the amendments sought in four of the six points indicated in its observation (relating among others to compulsory arbitration in non-essential services and other obstacles to the right to strike, and penalties applicable in the event of a strike established by various legislative provisions); and the immediate submission of this agreement to the National Congress; (ii) the tripartite agreement concluded in August 2018 on the principles that should guide reforms on the requirements for the establishment and operation of sectoral unions and on the conditions for strike ballots.*** ***Encouraged by the specific actions agreed upon during the ILO-IOE-ITUC joint mission, CEACR expressed its firm hope that the Government would very soon be in a position to report both the adoption of the Bill brought before the National Congress on 27 October 2022 and tangible progress in the revision of the legislation relating to sectoral trade unions and the conditions for strike ballots.***

	In addition, there is a direct request dealing with right to strike issues.
Guinea	CEACR recalls that in its previous comment it requested the Government to: • indicate the minimum services determined in the transport and communications services. CEACR notes that, according to the Government, following a number of collective disputes, minimum services have been determined at the level of certain institutions and that minimum services exist in the communication and transport sectors. ***CEACR once again requests the Government to provide information on the work of the National Social Dialogue Council (CNDS), once operational, in the resolution of disagreements concerning the determination of minimum services. CEACR also once again requests the Government to provide information on the minimum services determined in the communication, transport and other sectors.*** In its previous comment, CEACR welcomed the establishment of the commission to review the Labour Code and hoped that sections 431.5 and 434.4 of the Labour Code, on minimum service in case of strikes and compulsory arbitration respectively, would be amended in conformity with the Convention. ***CEACR requests the Government to report on all progress made in this respect and encourages the Government to continue to avail itself of the technical assistance of the Office in this connection.***
Haiti	CEACR notes ITUC allegations of police repression during peaceful demonstrations and strikes. CEACR notes (with deep concern) that the Government's report was not received (since 2014). CEACR repeats its previous comments. CEACR recalls that it has been raising issues concerning the observance of the Convention in an observation and a direct request, including longstanding recommendations to bring the labour legislation into conformity with the Convention regarding provisions that unduly restrict (...)(ii) the right of workers' organizations to organize their activities in full freedom and to formulate their programmes. ***Not having received any additional observations from the social partners, nor having at its disposal any indication of progress on these pending matters, CEACR refers to its previous observation and direct request adopted in 2020 and urges the Government to provide a full reply thereto. To this end, CEACR expects that any request for technical***

	assistance that the Government may address to the Office will be acted upon as soon as possible. ***CEACR expects that the Government will make every effort to take the necessary action in the near future.***
Hungary	CEACR had previously highlighted the need to amend the relevant laws, i.e.: • the Strike Act, the Passenger Transport Services Act and the Postal Services Act), in order to ensure that the workers' organizations concerned may participate in the definition of a minimum service and that, where no agreement is possible, the matter is referred to a joint or independent body. CEACR notes the Government's indication that having dealt with difficulties caused by the COVID-19 pandemic, it plans to put on the agenda a comprehensive amendment of the Strike Act. ***CEACR urges the Government to take all necessary measures to amend without further delay the Strike Act, as well as the Passenger Transport Services Act and the Postal Services Act as per CEACR's previous comments, and to provide information on all developments in this respect.***
Indonesia	CEACR takes note of ITUC allegation that: • Omnibus Law on Job Creation (Law No. 11 of 2020) restricts the right to strike as it grants police officers significant discretion to imprison or fine union members for participating in or inviting others to participate in lawful strike action. ***CEACR requests the Government to provide its comments on the ITUC allegations and to provide information on the revision of the law and its regulations.*** CEACR had previously requested the Government to engage in tripartite discussions to ensure the effective implementation of a code of conduct for workers' demonstrations and industrial actions. CEACR notes with concern the ITUC allegation of violence and arrests by the police in relation to a strike action against the Omnibus Law. ***CEACR requests the Government to provide detailed information on the outcome of the tripartite discussions and on progress made toward any agreed measures to ensure the effective implementation of a code of conduct for workers' demonstrations and industrial actions. Recalling that in cases of strikes, the authorities should only resort to the use of force in exceptional circumstances and in situations of gravity where***

	there is a serious threat of public disorder, and that such use of force must be proportionate to the circumstances, CEACR urges the Government to indicate all steps taken or envisaged to ensure the application of that principle. CEARC had also requested the Government to clarify: • Sections 160 and 335 of the Penal Code, respectively on "instigation" and "unpleasant acts" against employers, did not apply to abstract trade union activities. ***CEACR requests the Government to ensure that the amended Penal Code excludes lawful trade union activities from the scope of sections 160 and 335 of the Code and further requests the Government to provide information on all developments in this regard.*** CEACR had previously requested the Government to provide information on the number of interest disputes referred to conciliation and mediations, and those referred to the industrial court without the consent of the parties. CEACR had previously invited the Government to discuss in the National Tripartite Country the effect of Presidential Decree No.63/2004 on the security of national vital objects (NVOs) and of the Ministry of Industry (MOI) Decree No. 466/2014, which enables companies or industrial areas to request assistance from the police and the military upon a disruption or threat to NVOs in their territory. ***CEACR urges the Government to take all necessary steps to ensure that such a discussion takes place without further delay.***
Jamaica	There is a direct request dealing exclusively with right to strike issues.
Kazakhstan	CEACR notes observations from IOE, TEK and ITUC referring to issues raised in CAS 2021. ***CEACR expects that all measures to give effect to the recommendations of the ILO supervisory bodies, as outlined below, will be taken within the indicated time frames.*** In addition, CEACR had previously requested the Government to amend the Criminal Code regarding: • Incitement to continue a strike declared illegal by the court which is punishable by up to one year of imprisonment and in certain cases (substantial damage to rights and interest of citizens, etc.), up to two years of imprisonment (section 402). ***In the absence of any further specific information in this regard, CEACR***

	once again requests the Government to provide information on all steps taken or envisaged in order to review section 402 of the Criminal Code so as to ensure that simply calling for a strike action, even one declared illegal by the courts, does not result in detention or imprisonment.
Kiribati	There is a direct request dealing with right to strike issues***.***
Liberia	CEACR takes note of the observations of ITUC and IOE referring to issues addressed in the CAS in 2022. CEACR repeats its previous observation, i.e. it requests: • Information on Developments on the designation of essential services by the National Tripartite Council and how designation operates in practice; • Clarification on how the President is bound by the definition of the notion of essential services (41.4(a) Decent Work Act). ***Noting with regret that no information has been provided by the Government in this respect, CEACR reiterates its previous request.***
Luxembourg	There is a direct request dealing with right to strike issues.
Madagascar	CEACR had previously requested to amend the Labour code on: • Compulsory arbitration: if mediation fails, the collective dispute is referred by the Ministry of Labour and Social Legislation to a process of arbitration; the arbitral award ends the dispute, as well as any strike (sections 220 and 225 of the Labour Code); • the possibility of requisitioning of striking employees in the event of disruption of public order (section 228 of the Labour Code). CEACR notes with regret that the Government merely indicates that prolonged disputes and strikes cause difficulties for society, workers and the economy, and provides information about the composition and functioning of its arbitration board. CEACR recalls that compulsory arbitration in the context of a collective labour dispute and the requisition of workers in the case of a strike are only acceptable when the strike in question may be restricted, or even prohibited, namely in the case of public servants exercising authority in the name of the State, in essential services in the strict sense of the term, or in situations of acute national crisis (2012 General Survey on the fundamental Conventions, paragraphs 151 and 153). ***Recalling that the above-mentioned issues have been the subject of its comments for several years, CEACR urges the Government to take the necessary measures to amend sections 220, 225 and 228 of the Labour Code in the near future. CEACR requests the Government to provide***

	information on any developments in this regard, and reminds it that it may avail itself of the technical assistance of the Office, if it so wishes.
Netherlands: Sint Maarten	CEACR had previously requested the Government to confirm whether: • Section 374(a), (b) and (c) of the old Penal Code, prohibiting public employees, including teachers, from striking under penalty of imprisonment, had been carried over into the new Penal Code, and to specify any other legislative provisions on the right to strike of civil servants. CEACR notes the Government's indication that: (i) the Penal Code was amended in 2015 to revoke certain provisions, including section 374bis, ter and quater, which were in violation of the Convention; (ii) the right to strike of civil servants is governed by the Constitution, the Civil Code, the National Ordinance on Collective Agreements, the National Collective Labour Dispute Ordinance and the cohesive Labour Peace Decrees, and article 6(4) of the European Social Charter, as the Supreme Court of the Netherlands determined that this provision was applicable in the country; and (iii) the National Ordinance on Substantive Civil Service Law was amended to allow the courts to forbid strikes which threaten public welfare or safety. CEACR notes that ITUC states that it is unclear whether section 374(a), (b) and (c) of the old Penal Code of the Netherlands Antilles has been included in the new Penal Code. ***CEACR requests the Government to specify whether public employees, such as teachers, are forbidden from striking under the new Penal Code, and to provide a copy of the new Penal Code. CEACR also requests the Government to provide detailed information on the types of circumstances in which strikes may be prohibited based on the National Ordinance on Substantive Civil Service Law.***
Nicaragua	CEACR recalls that for a decade it has been referring to take steps to: • amend sections 389 and 390 of the Labour Code, which provide that collective disputes shall be referred to compulsory arbitration when 30 days have elapsed since the calling of the strike. CEACR notes that the Government reiterates that the country has a wide legal framework that covers industrial disputes; that it has been reinforcing resolution of conflicts through social dialogue and that, in accordance with the principle of sovereignty, any decision to amend the said sections must emanate from the Nicaraguan people. ***In light of the above, CEACR urges the Government to take the necessary measures to amend sections 389 and 390 of the Labour Code in order to ensure that compulsory arbitration is only possible in cases where strikes may be limited or even prohibited, namely in cases of conflict within the***

	civil service relating to officials exercising authority on behalf of the State, in essential services in the strict sense of the term or in the event of an acute national crisis. CEACR requests the Government to provide information on any developments in this regard and firmly hopes that, in the context of the technical assistance mentioned above, progress towards compliance with the Convention will be achieved.
North Macedonia	Government has not sent report (deep concern). Repetition of previous comments: CEACR notes the observations of the Confederation of Free Trade Unions of Macedonia (KSS), received on 1 September 2021, which allege restrictions on the right to strike in the education sector (...). ***CEACR requests the Government to provide its comments thereon.*** In previous comments, CEACR had noted that, under the Law on Public Enterprises and the Law on Employees in the Public Sector: (i) employees in the public sector are entitled to strike; (ii) employees in the public sector are obliged to provide minimum services taking into account the rights and interests of citizens and legal entities; and (iii) in accordance with the applicable laws and collective agreements, the head of the respective institution determines the performance of the institutional activities of public interest that are to be maintained during a strike, the manner in which the minimum service will be carried out and the number of employees that will provide services during the strike. ***CEACR requests the Government to take, in consultation with representative public employee and public employer organizations, any necessary measures to ensure the determination of minimum services in public enterprises conforms with the situations described above, and to provide further information concerning such determination in practice (in particular as to the types of activities, and percentage of employees in those activities, that have been affected by a determination of minimum services, as well as the possibility for employee organizations to participate in the definition of minimum services).*** In its preceding comment, CEACR had requested the Government to amend section 38(7) of the Law on Primary Education and section 25(2) of the Law on Secondary Education, which oblige the school directors to provide for the realization of educational activities by replacing the striking employees when the educational activity is interrupted due to a strike. ***Regretting the lack of progress in this respect CEACR once again requests the Government to amend the Law on Primary Education and the Law on Secondary Education, so as to remove the possibility of replacing striking workers and to enable workers in the primary and secondary education sectors to effectively exercise their right to strike, as well to provide a***

	copy of the amended legal texts once adopted.
Pakistan	CEAR notes the adoption of the Balochistan Industrial Relations Act No. XIX of 2022 (BIRA 2022) on 22 June 2022, but also notes that certain provisions are not in compliance with the Convention: • BIRA 2022, section 1(6) on essential services: CEACR is bound to repeat its previous comments concerning the distinction between the right to establish and join a union, of which only the armed forces and the police can be deprived, and the right to strike, which may be restricted in certain categories of public servants, essential services in the strict sense of the term, and situations of acute national or local crisis. While the exercise of the right to strike of the workers in essential services can be restricted or even prohibited, their exclusion from the right to establish and join unions is an infringement of the Convention. ***In view of the above, while welcoming certain legislative changes in Balochistan, CEACR urges the Government to ensure that the federal and provincial governments take the necessary measures to revise the IRA, the BIRA, the KPIRA, the PIRA and the SIRA so that all categories of workers can enjoy their rights under the Convention, the only admissible exception – which must be construed in a restrictive manner – being the police and the armed forces.*** Regarding EPZs, for many years, CEACR has been requesting the Government to take the necessary steps to ensure that the workers in EPZs can benefit from the rights enshrined in the Convention. The Government (..) informs that the EPZ (Employment and Service Condition) Rules 2009 have been finalized and workers are accordingly given rights guaranteed under the Convention, including the right to strike. ***CEACR requests the Government to submit a copy of the final version of EPZ (Employment and Service Condition) Rules 2009. It also requests the Government to provide information on the exercise of trade union rights in the EPZs (...).*** In previous comments CEACR had noted that the IRA and its provincial variants establish excessively broad disqualification criteria for being elected or holding union office and had requested the Government to amend the legislation. As grounds for disqualifications are provided in the legislation include: (iii) violation of the National Industrial Relations Commission or Labour Court order to stop a strike (section 44(10) of the IRA, 59(7) BIRA, 60(7) KPIRA, 56(7) PIRA, and 57(7) SIRA; …. CEACR considers that not every contravention of industrial relations legislation, nor every violation of a judicial order to stop a strike, nor every conviction for the range of offences alluded to necessarily constitute acts of such a

	nature as to be prejudicial to the performance of trade union duties. ***CEACR therefore once again urges the Government to ensure that the federal and provincial legislation is amended so as to make the grounds for disqualification more restrictive and to provide information on developments in this regard.*** In addition, there is a direct request dealing with right to strike issues.
Panamá	CEACR notes that the CONUSI's allegations with regard to compulsory arbitration and the exercise of the right to strike in the air transport sector are being examined by the Committee on Freedom of Association (Case No. 3319). In addition, repetition of previous observations, CEACR recalls that for many years has been commenting: • Legislation interfering with the activities of employers' and workers' organizations Closure of enterprise in the event of a strike and prohibition of entry to non-striking workers (these measures actually do not restrict the right to strike, but rather employers/non-striking worker activity in the event of a strike). Sections 452(2), 493(4) and 494 of the Labour Code; and automatic intervention of the police in the event of a strike (section 493(1) of the Labour Code); • Prohibition on federations and confederations from calling strikes; prohibition on strikes against the Government`s economic and social policy; unlawfulness of strikes that are not related to an enterprise collective agreement; regional or General Labour Directorate may refer labour disputes to compulsory arbitration in private transport enterprises; Sections 452 and 486 of the Labour Code; • Obligation to provide minimum services with 50 % of the staff in the transport sector; • Penalty of summary dismissal of public servants for failure to comply with minimum services in the event of a strike. Sections 155 and 192 of the Single Text of 29 August 2008, as amended by Act No. 43 of 31 July 2009. ***CEAR urges the Government, without delay and in consultation with the social partners, to take the necessary steps to bring its legislation on collective labour relations in the public sector, as well as those outstanding legislative matters relating to the private sector into conformity with the Convention. CEACR requests the Government to provide information on the progress achieved in this respect and reminds the Government that it may avail itself of the technical assistance of the Office.***

Paraguay	Repetition of previous observations, for many years CEACR recalls it has been highlighting the inconsistency of certain legislative provisions with the Convention and requested the Government to take the necessary measures to amend the legislation: • Obligation to provide a minimum service in the event of a strike in public services that are essential to the community without any requirement to consult the employers` and workers` organizations concerned. Section 362 of the Labour Code; • Strike objectives: sole purpose of a strike must be directly and exclusively linked to the workers` occupational interests. Sections 358 and 376(a) of the Labour Code. ***CEACR urges the Government, in consultation with the social partners, to take the necessary measures to align the Labour Code with the Convention. CEACR requests the Government to report on progress made in this respect and recalls that the Government may avail itself of ILO technical assistance.*** • Compulsory arbitration: CEACR recalls that in its previous comments it noted that sections 284 and 320 of the Code of Labour Procedure regarding referral of collective disputes to compulsory arbitration are not applied in practice, since they have been tacitly repealed by section 97 of the Constitution of the Republic of Paraguay, which establishes that arbitration shall be optional. ***Observing that the Government reports no specific progress on this subject, CEACR once again requests, in the light of the provisions of the Constitution of Paraguay and in order to avoid all possible ambiguity in interpretation, that the Government take the necessary measures to amend or repeal expressly the above-mentioned provisions of the Code of Labour Procedure.***
Perú	CEACR notes that Presidential Decree No. 014-2022-TR, published on 24 July 2022, amends the Regulations of the Collective Labour Relations Act (LRTC) and observes, among other aspects, that the Decree: • removes section 63 of the Regulations, which established a requirement not set out in the Act for the calling of strikes for the defence of labour rights (the presentation of the judicial ruling that has been accepted or become final); • establishes the explicit prohibition for employers to replace, directly or indirectly, striking workers, and any act that impedes or obstructs the exercise of the right to strike; • simplifies the documentary requirements for the administrative procedure of the notification of strikes replacing the requirement to

	submit a legalized copy of the proceedings of the assembly in which the strike was decided upon, by the submission of a simple copy; and • makes explicit reference to the administrative procedure for the notification of strikes, with the indication that it is an administrative procedure subject to prior assessment and is assumed to be approved if no objections are raised. ***CEACR … expresses the hope that the implementation of the Presidential Decree which, according to the Government, has its origins in concerns at the situation of freedom of association in the country, will contribute to ensuring the full enjoyment and exercise of the rights set out in the Convention and requests the Government to provide information on the impact of the Decree`s application.*** CEACR also repeats previous observations: • <u>Holding a strike vote.</u> The decision to call a strike must be adopted in the manner set out in the statutes, provided that the decision is taken by "at least the majority of the voting members present in the assembly" as per section 40 of Act No. 30057, the Civil Service Act, section 62, as amended, of the Regulations of the Consolidated Single Text of the Collective Labour Relations Act (the TUO of the LRCT). ***CEACR notes that, although the trade union confederations indicate that Act No. 31188, the State Sector Collective Bargaining Act, published on 2 May 2021, repealed section 40 of the Civil Service Act, the Government indicates that subsection 13(2)(e) of Act No. 31188 provides that workers may call strikes in accordance with the provisions of the TUO of the LRCT.*** • <u>Determining the unlawfulness of strikes</u>. CEACR observed that the Civil Service Support Commission was competent to decide whether a strike is inappropriate or unlawful and, as it had yet to be established, CEACR requested the Government to take the necessary measures to ensure that the competence to determine the lawfulness of strikes, in both the private and public sectors, does not lie with the Government, but rather with an independent body that has the trust of the parties. CEACR notes the Government's indication that, while the body that is competent for determining the appropriate nature of a strike in the private sector is the Administrative Labour Authority, which issues its decision with independence, impartiality and in accordance with the law, the preliminary draft of the Labour Code proposes that, at the request of the employer or employers affected by the measures, the judicial authority shall determine the lawfulness or unlawful nature of a strike. With regard to the public sector, the Government recalls that, in accordance with the Tenth Supplementary Transitional Provision of the Regulations of the Civil Service Act, the Administrative Labour Authority shall assume the functions of the Civil Service Support

	Commission until the latter is established. CEACR observes that the trade union confederations consider that the fact that the Administrative Labour Authority continues to determine the lawful nature of strikes in both the private and the public sectors (in view of the persistent failure to establish the Civil Service Support Commission with guarantees of its real impartiality) bears witness to the reluctance of the State to bring the legislation into conformity with the provisions of the Convention and they indicate that 100 per cent of strikes in 2020 were found to be unlawful by the Administrative Labour Authority. ***CEACR urges the Government to take the necessary measures to ensure that the authority to determine the lawful nature of strikes in the private sector does not lie with the labour administration, but rather with an independent body that has the trust of the parties. CEACR hopes that the proposed amendment contained in the preliminary draft of the Labour Code will be the subject of extensive tripartite consultations and requests the Government to keep it informed of any developments in this regard. Observing with concern the indications of the trade union confederations, CEACR expresses the firm hope that the Civil Service Support Commission will be established without further ado and that it will be a genuinely independent body. CEACR requests the Government to provide information on any progress in this regard.*** • Definition of minimum services in essential public services. CEACR previously observed that the Consolidated Single Text of the Collective Labour Relations Act provided that the Civil Service Support Commission would be the competent body to determine the minimum services required during strikes affecting essential services, and it trusted that the Civil Service Support Commission would be established in the near future. CEACR notes the Government's indication that section 435 of the preliminary draft of the Labour Code provides that, in the event of disagreement, the matter shall be referred to an independent technical body for the determination of the minimum service and that the decision shall be binding. CEACR notes that, in addition to reiterating that the Civil Service Support Commission has still not been set up, the trade union confederations indicate that section 68 of the Regulations of the Collective Labour Relations Act, as amended by Presidential Decree No. 014- 2022-TR, provides that, while the Administrative Labour Authority may avail itself of the support of an independent body to resolve any disagreement concerning minimum services in essential public services, the Administrative Labour Authority shall resolve the matter on the basis of the report of the independent body. ***While taking due note of the modifications introduced by Presidential Decree No. 014-2022-TR, CEACR recalls that disagreements between the parties on the number and functions of workers should not only be***

	examined, but also resolved by an independent body. CEACR reiterates the need for the Civil Service Support Commission to be established without delay and requests the Government to provide information on any developments in this respect. In addition, there is a direct request dealing exclusively with right to strike issues.
Philippines	High Level tripartite mission took place in January 2023 resulting in the development of a roadmap on the way forward to address identified concerns. Repetition of previous comments: CEACR had been noting the numerous amendment bills pending before Congress over many years and in various forms with a view to bringing the national legislation into conformity with the Convention. ***Noting the Government's indication that no recent amendments have been made on the pending matters, even though a number of measures had been filed with the Senate and the House of Representatives over the years, CEACR reiterates all of its previous comments and requests in this respect, and expects concrete measures to be taken to pursue the revision of the Labour Code without additional delay so as to bring the national legislation into conformity with the Convention. CEACR further reiterates its comments contained in the 2020 request addressed directly to the Government.*** Previous comments in 2021: • Compulsory arbitration beyond essential services (section 278(g)) of the Labour Code and Department Order No. 40-G-03). ***Observing that the Committee on Freedom of Association has also previously addressed this issue (see 390th Report, June 2019, Case No. 2716, paragraph 78; 391st Report, October 2019, Case No. 2745, paragraph 51 and 392nd Report, October 2020, Case No. 2716, paragraph 153) and recalling that the Government has been referring to legislative amendments to section 278(g) for numerous years, CEACR expects that these legislative amendments will be adopted in the very near future and that they will ensure that Government intervention leading to compulsory arbitration is limited to essential services in the strict sense of the term. CEACR requests the Government to report progress in this regard and to transmit copies of the amending legislation once adopted.***

	• Possible penal sanctions for workers for having carried out an illegal (non-compliance with bargaining and notice requirement) but peaceful strike (sections 279 and 287) of the Labour Code). ***Regretting the absence of any substantial progress in the adoption of the previously announced amendments to sections 279 and 287 of the Labour Code, CEACR expects the Government to take the necessary measures to ensure that these amendments are adopted in the near future and that any other necessary changes are made in national laws or regulations to ensure that no penal sanctions are imposed against a worker for having carried out a peaceful strike, even if noncompliant with bargaining or notice requirements. CEACR requests the Government to provide information on the progress made, as well as its reply to the ITF allegations.***
Poland	Repetition of previous comments. CEACR had requested the Government to amend: • Section 78(3) of the Act on Civil Service: Restriction for civil servants to participate in strikes interfering with the normal functioning of the office. CEACR trusted that the Government would consider establishing a procedure for determining which public servants enumerated in section 19(3) of the Law on Collective Labour Disputes and in section 2 of the Act on the Civil Service were exercising authority in the name of the State and for whom the right to strike could therefore be restricted. Recalling that it had previously welcomed the Government's indication that a draft law dealing with the right of public employees to strike was submitted to the Council of Ministers, CEACR notes with regret the Government's indication that at present, there are no legislative initiatives to amend section 78(3) of the Act on Civil Service. ***Recalling that for a number of years it has been commenting on the discrepancies between section 78(3) and (6) of the Act on Civil Service Act and the Convention, CEACR urges the Government to take all necessary steps to expedite the process of amendment of this Act, so as to ensure that civil servants may exercise their trade union functions at all levels and that the right to strike is granted to all public servants, with the possible exception of public servants exercising authority in the name of the State. It requests the Government to provide information on all progress made in this regard.*** In addition, there is a direct request dealing with right to strike issues.
Romania	There is a direct request dealing with right to strike issues**.**

Russian Federation	CEACR recalls previous comments: • Right to strike of workers of municipal services, as well as civil servants who do not exercise authority in the name of the State (section 14 1. 14) of the Law on Municipal Service and section 17 1. 15) of the Law on State Civil Service). CEACR questions to what extent "support specialists" (clerical, documentation, IT, accounting, etc. specialists), for example, exercise authority in the name of the State. CEACR recalls that too broad a definition of the concept of civil servant may result in a very wide restriction or even a prohibition of the right to strike for these workers. ***CEAR reiterates its request and expects the Government to inform it of the outcome of the review, in consultation with the social partners, of various categories of the State and municipal civil service with a view to identifying those that may fall outside of this narrowly interpreted category and whose right to strike should be guaranteed.*** • Right to strike of railway transport workers (section 26(2) of the Law on Federal Rail Transport (2003). ***CEACR reiterates its previous request and expects the Government to take the necessary measures, in consultation with the social partners, to amend section 26(2) of the Law on Federal Rail Transport so as to bring it into full conformity with the Convention. CEACR requests the Government to provide information on measures taken or envisaged in this respect. The Government is asked to reply in full to the present comments in 2023.***
Rwanda	There is a direct request dealing exclusively with right to strike" issues.
Saint Vincent and the Grenadines	There is a direct request dealing with right to strike issues.
Samoa	There is a direct request dealing with right to strike issues.
Sao Tome and Principe	There is a direct request dealing with right to strike issues.
Senegal	CEACR, once again, notes with deep regret that the Government has not reported any progress in bringing the legislation into conformity with the Convention and has only reiterated that CEACR's recommendations will be taken into account in the ongoing reform. Repetition of previous observations:

	• Requisitioning of workers in the event of a strike – there is no list of jobs in which this is permitted (Decree No. 72-17 of 11 January 1972). ***CEACR urges the Government to take the necessary measures to ensure that the implementing Decree of section L.276 of the Labour Code authorizes the requisitioning of workers only to ensure the operation of essential services in the strict sense of the term.*** • Occupation of workplaces in the event of a strike - can be restricted even if strike is peaceful and the freedom to work of non-strikers and the right of the management to enter the premises of the enterprise is respected (Section L.276 of the Labour Code. ***CEACR urges the Government to take the necessary measures to limit the restrictions provided for in section L.276 of the Labour Code to ensure that they only apply in cases when strikes cease to be peaceful or when respect for the freedom to work of non-strikers and the right of the management to enter the premises of the enterprise are hindered.***
Serbia	There is a direct request dealing with right to strike issues***.***
Seychelles	In previous comments CEACR had requested the Government to provide information on the developments regarding the review of the Industrial Relations Act (IRA), particularly the amendments of its following provisions: • section 52(1)(a)(iv), so as to reduce the majority required to declare a strike to a simple majority; • section 52(1)(a)(iii), so as to consider shortening the length of the cooling-off period; • section 52(4), so as to ensure that the responsibility for declaring a strike illegal does not lie with the government authorities, but with an independent body which has the confidence of the parties involved; and • section 56(1), which imposes penalties of up to six months of imprisonment for organizing or participating in a strike declared unlawful. The Government indicates that it is yet to finalize its position on the proposals. While taking due note of the work carried out with the technical assistance of the ILO, CEACR recalls that it has been requesting the Government to amend the IRA for a number of years. ***CEACR therefore urges the Government to take all necessary steps to expedite the legislative review, in consultation with the social partners, and to take into account the CEACR's previous comments, including its expectation that the amendment of section 52(1)(a)(iv) will continue to***

	ensure that account is taken only of votes cast, as well as its comments on provisions apparently not mentioned in the consultant's report. CEACR requests the Government to provide information on the developments in this regard. CEACR notes the Government's indication that while the 45 days cooling-off period is not preceded by compulsory prior mediation or conciliation procedure and begins at the time of the reporting of the dispute to the Minister, in its view, it is possible to further shorten it to 30 days, in consultation with the social partners. ***Recalling that the period of advance notice should not be an additional obstacle to bargaining, CEACR requests the Government to provide information of developments in this respect***
Solomon Islands	There is a direct request dealing with right to strike issues.
Somalia	The report was not received. CEACR notes the observations of the Federation of Somali Trade Unions (FESTU), received on 1 October 2020, alleging violations of the right to organize, including the right to strike, at an airport management company, as well as pressures and threats by the police against trade union officials. CEACR requests the Government to provide its comments in this respect. There is also a direct request dealing with right to strike issues***.***
South Africa	CEACR takes note of earlier and new ITUC allegations of violent repression of strike actions and arrests of striking workers. CEACR repeats previous comments: • Difficulties for farmworkers to engage in legally protected industrial action. ***CEACR reiterates its previous request and expects the Government to transmit full particulars in this respect with its next report.*** ***The Government is asked to reply in full to the present comments in 2023.***
Spain	There is a direct request dealing with right to strike issues***.***

Sri Lanka	Reference to old episodes of violence by the policy and the army during peaceful strikes actions, in particular in Free Trade Zones (FTZ). Repetition of previous comments: • Compulsory arbitration: Minister may refer any industrial dispute to an industrial court for settlement; if he is of the opinion that it is a minor dispute; he/she can also refer it, for settlement by arbitration, to an arbitrator appointed by the Minister or to a Labour tribunal. Section 4(1) and (2) of the Industrial Disputes Act. CEACR once again recalls that recourse to compulsory arbitration to bring an end to a collective labour dispute or a strike is permissible only: (i) if the dispute involves public servants exercising authority in the name of the State; (ii) in conflicts in essential services in the strict sense of the term; or (iii) in situations of acute national or local crisis. ***CEACR therefore urges the Government to take the necessary measures to amend section 4(1) and (2) of the Industrial Disputes Act in order to guarantee respect for this principle and to inform it of progress in this regard.*** In addition, there is a direct request dealing exclusively with right to strike issues.
Sweden	In previous comment CEACR requested the Government to provide details on the proposals made to review: • The exercise of the right to industrial action; • The bill drafted by the social partners to address the issues in relation to the exercise of the right to strike. CEAR takes note of the Government's indication that a bill entitled "Extended obligation to keep the peace in workplaces where there is a collective agreement and in the event of legal disputes" was adopted and the amendments to the Act on Co-Determination in the Workplace, which set forth conditions under which the right to industrial action against an employer bound by a collective agreement could be exercised, entered into force on 1 August 2019. ***CEACR notes the adoption and entering into force of this new law and requests the Government to provide information on developments under the 2019 amendments, including any situations in which the right to industrial action was exercised and situations in which it was not.***
Switzerland	There is a direct request dealing exclusively with right to strike issues**.**

Syrian Arab Republic	Reference to past episodes of violence during strikes actions. CEACR notes that the Government earlier indicated that "(iv) the right to strike is provided for in article 44 of the Constitution (2012), which specifies that citizens have the right to assemble, to peacefully demonstrate and to strike." ***CEACR at the time said that it expects the Government to ensure respect for this principle*** Report has not been received. CEACR recalls previous comments regarding: • Heavy sanctions including imprisonment for participation in a strike (sections 330, 332, 333 and 334 of Legislative Decree No. 148 of 1949, issuing the Penal Code); • Right to strike not mentioned in the chapter on collective labour dispute of the Labour Act. ***Recalling that in the past, the Government had indicated that the GFTU was working to modify the Labour Act to ensure coherence with articles of the Constitution granting workers the right to strike, CEACR expects that the law will be amended so as to bring it into line with the Convention and requests the Government to provide information in this regard. While noting the Government's indication that the agricultural sector is now governed by Law No. 56 of 2004, CEACR also requests the Government to indicate whether workers of this sector enjoy the right to strike and identify the relevant legislative provisions.*** ***While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, CEACR trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.*** ***CEACR hopes that the Government will make every effort to take the necessary action in the near future.***
Tajikistan	There is a direct request dealing exclusively with right to strike issues.
Timor Leste	There is a direct request dealing with right to strike issues**.**
Togo	In previous comments, CEACR requested the Government to amend: • Section 275 of the Labour Code, which required the parties, during the course of a strike, to continue negotiations under the authority of a person designated by the Minister of Labour. CEACR notes with satisfaction the Government's indication that section

	275 has been revised in order to permit the parties to a dispute to choose the procedure for the settlement of the dispute. However, CEACR notes that • Section 322, under the terms of which the right to strike shall be exercised under conditions of duration and according to procedures that are compatible with the intrinsic requirements of the activity of the enterprise or establishment; • Section 331(b), which prohibits any strike action from being pursued at the workplace, at its perimeter or within its immediate vicinity, all constitute limitations on the exercise of the right to strike. ***CEACR therefore requests the Government to take the necessary measures to amend sections 322 and 331 of the Labour Code.*** • Broad definition of essential services, section 327 of the new Labour Code, subsections 3 and 4. CEACR observes that services such as those relating to security, education, banks and financial establishments, as well as air and maritime transport, cannot be considered essential within the strict sense of the term, that is their interruption would not endanger the life, personal safety or health of the whole or part of the population. CEACR nevertheless emphasizes that, in order to prevent irreversible or disproportionate harm to the professional interests of the parties to a dispute, the authorities could establish a system of a negotiated minimum service in the event of a strike in these services. It also recalls that such a service should genuinely and exclusively be a minimum service, that is one which is limited to the operations that are strictly necessary to meet the basic needs of the population or the minimum requirements of the services, while maintaining the effectiveness of the pressure brought to bear. Moreover, as this system restricts one of the essential means of pressure available to workers to defend their interests, their organizations should be able to participate in defining such a service, along with employers and the public authorities (2012 General Survey on the fundamental Conventions, paragraphs 131, and 137) ***CEACR therefore requests the Government to take the necessary measures to amend section 327 of the Labour Code so as to adjust the definition of essential services and provide, where appropriate, for a minimum negotiated service in the event of strikes in such services, in accordance with the principles recalled above***. ***In addition, CEACR recalls that the Government may avail itself of technical assistance of the Office in order to ensure the full conformity of the provisions of the new Labour Code with the Convention.***

Trinidad and Tobago	CEACR in previous comments had requested the Government to amend provisions of the Industrial Relations Act (IRA) with regard to the following issues: • Majority required for calling a strike (section 59(4)(a) of IRA); • Recourse to the courts by either party or by the Ministry of Labour to end a strike (sections 61(d) and 65 of IRA); • Services in which industrial action may be prohibited (section 67 (in conjunction with the second schedule) and section 69 of the IRA). CEACR takes note of the Government's indication that the draft policy paper for the amendment of the IRA submitted to Cabinet in January 2017 was later revised to incorporate the recommendations of the National Tripartite Advisory Council and re-submitted to Cabinet for its consideration in May 2021. ***Regretting that no developments appear to have taken place since then, CEACR urges the Government to take the necessary steps so that the IRA is amended without any further delay and requests it to provide a copy of the legislation once adopted.***
Tunisia	CEACR notes with deep regret that the Government has not reported any progress in bringing the legislation into conformity with the Convention and that it only repeats the explanations already supplied in response to CEACR's long-standing recommendations. ***CEACR is bound to recall below its main recommendations and once again urges the Government to take all the necessary measures to give full effect to the provisions of the Convention. …. CEACR urges the Government to take the necessary measures to amend the following sections of the Labour Code concerning restrictions on the exercise of the right to strike:*** • ***Section 376bis (approval of the central workers' confederation before declaring a strike);*** • ***Section 376ter (compulsory indication of the duration of the strike in the strike notification);*** • ***Sections 387 and 388 (possibility of imposing penalties in the event of an unlawful strike).*** ***With regard to section 381ter of the Labour Code (determination of the list of essential services by decree) CEACR once again requests the Government to indicate whether the decree provided for by this section has been adopted.*** ***The Government is asked to reply in full to the present comments in 2023.***

Turkey	Repetition of previous comments: • Possibility for the President of the Republic to suspend a strike or lockout for 60 days by a decree on the grounds that it is prejudicial to public health or national security; if an agreement is not reached during the suspension period, the dispute will be submitted to compulsory arbitration. Section 63(1) of Act No. 6356. (Constitutional Court declared this unconstitutional in 2014 and 2015 for strikes or lockouts in the banking and municipal transport services, but according to a Decree with power of law (KHK) No. 678, the Council of Minister can nevertheless suspend strikes in these sectors for 60 days. ***Recalling the Constitutional Court ruling that strike suspensions in these sectors (urban transportation and banking sectors) were unconstitutional, CEACR requests the Government to take into consideration the above principles in the application of section 63 of Act No. 6356 and KHK No. 678. It further requests the Government to provide a copy of KHK No. 678.*** In addition, there is a direct request dealing with right to strike issues***.***
Turkmenistan	Repetition of previous comments. CEACR had noted that the provisions of the Labour Code on collective labour disputes did not refer to the right to strike; that according to the Government, collective labour disputes were resolved through mediation or in case of a failure, in courts; and that the parties could not refuse to participate in dispute resolution procedures. CEACR considered that: • while the strike action was not an end in itself, it was an essential means available to workers and their organizations to protect their interests; • insofar as compulsory arbitration, including through judicial proceedings, prevents strike action, it was contrary to the right of trade unions to organize freely their activities and could only be justified in the public service for public servants exercising authority in the name of the State or in essential services in the strict sense of the term. CEACR requested the Government to take the necessary measures, in consultation with the social partners, in order to ensure the application of this principle in law and in practice. ***CEACR notes with regret that the Government did not provide any information on this matter and is therefore bound to reiterate its previous request. CEACR expects the Government to provide information on all steps taken or envisaged in this respect.***
Uganda	Repetition of previous comments:

	• Responsibility for declaring a strike illegal lies with the Government. Section 29(2) of the Labour Disputes (Arbitration and Settlement) Act of 2006 (LDASA); • List of essential services. Schedule 2 of the LDASA. CEACR notes with concern the Government's indication that while the LDASA was amended in 2020, section 29(2) and Schedule 2 of the LDASA were not. The Government indicates that it will consider addressing these matters through other policy arrangements. ***CEACR urges the Government to take all the necessary measures in consultation with the social partners to amend section 29(2) in line with its previous request and to harmonize the list of essential services in Schedule 2 of the LDASA, irrespective of other policy arrangements that may be adopted. CEACR requests the Government to provide information on any developments in this regard, including on any other policy arrangements adopted, and to provide a copy of the revised LDASA.***
Ukraine	CEACR notes that according to the FPU and the KVPU, among others, the draft Law No. 2682 of 27 December 2019 on Strikes and Lockouts was introduced in Parliament without prior consultation with the social partners. According to the FPU and the KVPU, this law, if adopted, would violate the Convention by restricting the right of trade unions to organize their administration and activities and to formulate their programmes in general, and the right to strike in particular. CEACR notes the Government's communication received on 8 December 2022 containing comments on the FPU and the KVPU allegations. CEACR will examine the Government's reply at its next session. ***CEACR urges the Government to engage with the social partners in respect of the draft legislation affecting their interests and rights with a view to bringing the legislation into conformity with the Convention prior to any further consideration by Parliament. CEACR recalls that the Government may avail itself of technical assistance from the Office in this respect.*** CEACR notes the extremely difficult situation in the country since 24 February 2022. In the absence of a report from the Government, CEACR refers to its previous comments: • Amend Section 19 of the Law on the procedure for settlement of collective labour disputes: Decision to call a strike has to be supported by a <u>majority of the workers</u> or two-thirds of the delegates of a conference; • Clarify which civil servants exercise authority in the name of the State and amend section 10(5) of the Law on Civil Service: <u>Right to strike for</u>

	specific groups of public servants not exercising authority in the name of the State is prohibited; • Provide information on the implementation of section 293 of the Criminal Code: Organized group actions that seriously disturb public order, or significantly disrupt operations of public transport, any enterprise, institution or organization and active participation therein, are punishable by a fine of up to 50 monthly minimum wages or imprisonment for a term of up to six months in respect of industrial action. ***CEACR hopes the Government will make every effort to take the necessary action in the near future.***
United Kingdom	CEACR recalls its previous comments: • Measures taken to facilitate e-balloting requirements for industrial action. According to the Government, round table consultations on the recommendations made in 2017 as a result of the review of e-balloting were held both with experts and with trade unions. The Government indicates that details will be provided after the finalization of its consideration of the recommendations. ***CEACR trusts that this work will be finalized without further delay and that the Government will provide information thereon in its next report.*** • Requirement of support of 40 percent of all workers for strike ballot in the education and transport sectors (Section 3 of Trade Union Act). ***CEACR urges the Government to review section 3 of the Trade Union Act with the social partners without further delay in order to ensure that the support of 40 per cent of all workers is not required for a strike ballot in the education and transport services***. • Provisions on picketing in the Trade Union Act; practice of notifying the police of the identity and contact details of activists engaged in lawful picketing. ***CEACR once again requests the Government to provide information on the application of this notification in practice, including any complaints that may have been made in relation to the handling of this information or its impact on lawful industrial action, and any information on the blacklisting of individuals engaged in lawful picketing. It also requests the Government to provide information on the additional restrictions planned, if any.*** In addition, there is a direct request dealing with right to strike issues***.***

United Kingdom (Anguilla)	There is a direct request dealing with right to strike issues.
United Kingdom (Jersey)	The report was not received. Repetition of previous request to the Government to provide information on the review of Employment Relations Law (ERL) and Codes of practice in particular the provisions regulating: • Right to strike (right to secondary action and social and economic protests – Section 20(3) of the ERL and Code 2; • Picketing – Code 2; • Compulsory arbitration – sections 22 and 24 of the ERL and Code 3; • Essential services – Code 2; and • Conditions for protected industrial action and the application by the courts of sections 3 and 20(2) of the ERL and Code 3). ***CEACR reiterates its request and trusts that the Government will soon be able to report progress concerning the review of the ERL and its codes of practice.*** ***CEACR hopes the Government will make every effort to take the necessary action in the near future.***
United Kingdom (Montserrat)	There is a direct request dealing with right to strike issues.
Tanzania	Repetition of previous observation related to the request to the Government on the need to: • Amend section 76(3)(a) of Employment and Labour Relations Act (ELRA) which prohibits picketing in support of a strike or in opposition to a lawful lockout; • Ensure that any service designated as essential by the Essential Services Committee pursuant to section 77 of the ELRA is based on the strict definition of the term. ***CEACR expects that the Government will provide full details on measures taken in consultation with the social partners to bring the legislation into conformity with the Convention on the above-mentioned issues.*** Regarding the practical application of Sections 4 and 85 of the ELRA, which prohibit protest action in case of a dispute in respect of which a legal remedy exists, CEACR considers that while the solution to legal conflicts arising as a result of a difference in the interpretation of a legal text should be left to the competent courts, it expresses concern that prohibiting all protest actions in respect of disputes for which a legal remedy exists may unduly interfere with the exercise of trade union rights.

	CEACR requests once again that the Government provide information on the application of the above-mentioned provisions in practice. ***ZANZIBAR*** CEACR had previously requested the Government to amend the following provisions of the LRA: • Section 64(1) and (2), so that the prohibition of the right to strike only extends to public servants exercising authority in the name of the state or to essential services in the strict sense of the term. ***CEACR expects the Government to take the necessary measures in the near future to amend the above-mentioned provisions, in consultation with the social partners and with the technical assistance of the ILO. CEACR requests the Government to provide information on all developments in this regard.*** CEACR had previously requested the Government to indicate whether the time frame for advance notices was the same for strikes and protest actions. CEACR recalls that in its previous comments it considered that the period of advance notice should not be an additional obstacle to bargaining, with workers in practice waiting for its expiry in order to be able to exercise their right to strike. CEACR notes the Government's indication that while the advance notice period for strikes is different from the one for protest action, efforts will be made in consultation with stakeholders to take into account the issues raised by CEACR in this regard. ***CEACR requests the Government to provide information on all developments in this regard.***
Uruguay	CEACR repeats its previous observation related to: • Workplace occupation during a strike – right to work of non-striking workers and right of management of the enterprise to access the workplace in the context of a labour dispute. CEACR notes with interest the Government's indication that on 9 July 2020 the Urgent Consideration Law No. 19.889 was promulgated, section 392 of which provides that "the State guarantees the peaceful exercise of the right to strike, the right of non-strikers to access and work in the establishments concerned and the right of the management to enter the premises freely."
Uzbekistan	There is a direct request dealing with right to strike issues***.***
Venezuela	Repetition of previous comments. CEACR recalls that it has been asking the Government for several years to revise provisions of the Basic Labour Act (LOTTT), in particular sections: (...)

	• 484 (ensure that either a judicial or an independent authority determines the areas or activities which may not be subject to stoppages during a strike on the grounds that they prejudice the production of essential goods or services which would cause damage to the population) and • 494 (ensure that the system for the appointment of the members of the arbitration board in the event of a strike in essential services guarantees the confidence of the parties in the system). CEACR also recalls that the Commission of Inquiry recommended in general the submission to tripartite consultation of the revision of laws and standards, such as the LOTTT, which revisions raise problems of compatibility with the Convention in light of the conclusions of the Commission of Inquiry and the comments of the ILO supervisory bodies. ***CEACR reiterates the recommendations of the Commission of Inquiry relating to legislative issues and urges the Government, in the context of institutionalized social dialogue, to submit to tripartite consultation without further delay the revision of the laws and standards, such as the LOTTT, which raise problems of compatibility with the Convention in light of the conclusions of the Commission of Inquiry (such as those regarding trade union registration, "electoral abeyance" or the WPBs) and the comments of the other ILO supervisory bodies. CEACR once again requests the Government, in view of the social partners' allegations, to include in the above-mentioned tripartite dialogue the discussion of the impact on the exercise of freedom of association of the Constitutional Act against hatred and promoting peaceful co-existence and tolerance, and of any measures needed to ensure that the application of this Act cannot restrict or suppress the exercise of freedom of association. CEACR requests the Government to inform it of any developments in this respect.***
Yemen	Report has not been received. CEACR refers to its earlier request to the Government for comments on ITUC allegations on dismissal of striking workers and violence during strike action. ***Noting with regret that the Government provides no reply to these observations, CEACR reiterates its previous request.*** CEACR also requests the Government to: • clarify whether section 40(b) of the Law on Trade Unions (LTU) required an authorization from the higher-level trade union for a strike to be organized, and if this was the case, to take the necessary measures to amend the legislation to bring it into conformity with the Convention. ***CEACR trusts that the Government will take the necessary measures***

	to amend the LTU so as to ensure the right of workers' organizations to organize their activities and formulate their programmes. CEACR requests the Government to provide information on any development in this regard. • provide a list of essential services (referred to in section 219(3) of the draft Labour Code), for which the Minister is empowered to submit disputes to compulsory arbitration (list of essential services will be issued by the Council of Ministers once the Labour Code is promulgated); • amend section 211 of the draft Labour Code according to which a strike notice must include an indication as to the duration of a strike so as to ensure that a trade union can call a strike for an indeterminate period of time. ***While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, CEACR trusts that the current legislative reform will bring the national legislation into full conformity with the Convention and requests the Government to indicate any developments in this regard.*** ***CEACR hopes that the Government will make every effort to take the necessary action in the near future.***
Zambia	CEACR repeats its previous observation containing a request to the Government to amend Industrial and Labour Relations Act (Act No. 19 of 22 December 2017) f on the following issues: • Maximum duration of 14 days for strikes, after which, if the dispute remains unsolved, it is referred to the court; • Strike can be discontinued if it is found by the court not to be "in the public interest"; • Essential services (too broadly defined; Minister can add other services to the list); • Penalties for having participated in a strike in an essential service. ***CEACR notes with deep concern that no consideration is being given to amending the ILRA by the Government. Recalling that it is the responsibility of the Government to ensure the application of the international labour Convention concerning freedom of association which has been freely ratified, CEACR urges the Government to take all necessary measures to amend the above-mentioned provisions and to inform it of all steps taken in this respect.***
Zimbabwe	In its previous comment, CEACR had requested the Government to: • Provide information on all developments made with regard to the tripartite consultative workshop to unpack the MOPA

	Maintenance of Peace and Order Act (MOPA) as well as on the outcome of the workshop between trade unions and law enforcement bodies, including a thorough examination of the allegations by the ZCTU and the ITUC of violations of civil liberties. ***CEACR regrets that no information has been provided by the Government on the review of the implementation of the two instruments developed for use by the law enforcement bodies (the handbook on international labour standards and the code of conduct). CEACR therefore encourages the Government to continue engaging with the social partners and the relevant state authorities with a view to monitor the application of the MOPA in practice, the use by the law enforcement bodies of the two abovementioned instruments and, with reference to the above, the allegations made by the ZCTU regarding the violation of civil liberties.***

ANNEX II
REFERENCES TO RIGHT TO STRIKE ISSUES IN DIRECT REQUESTS ON CONVENTION 87

No.	Country	Reference to right to strike issues
1.	Algeria	Yes
2.	Antigua y Barbuda	Yes
3.	Barbados	Yes
4.	Chad	Yes
5.	Comoros	Yes
6.	Congo	Yes
7.	Djibouti	Yes
8.	Ecuador	Yes
9.	Gabon	Yes
10.	Gambia	Yes
11.	Guatemala	Yes
12.	Jamaica	Yes
13.	Kiribati	Yes
14.	Luxembourg	Yes
15.	Pakistan	Yes
16.	Papua New Guinea	No
17.	Peru	Yes
18.	Poland	Yes
19.	Portugal	No
20.	Romania	Yes
21.	Rwanda	Yes
22.	Saint Kitts and Nevis	No
23.	Saint Vincent and the Grenadines	Yes
24.	Samoa	Yes
25.	Sao Tome and Principe	Yes
26.	Serbia	Yes
27.	Sierra Leone	No
28.	Solomon Islands	Yes
29.	Somalia	Yes
30.	Spain	Yes
31.	Sri Lanka	Yes
32.	Suriname	No
33.	Switzerland	Yes
34.	Tajikistan	Yes
35.	Timor-Leste	Yes
36.	Turkey	Yes
37.	United Kingdom of Great Britain and Northern Ireland	Yes
38.	United Kingdom of Great Britain and Northern Ireland: Anguilla	Yes
39.	United Kingdom of Great Britain and Northern Ireland: Bermuda	No
40.	United Kingdom of Great Britain and Northern	Yes

	Ireland: Montserrat	
41.	Uzbekistan	Yes
42.	Vanuatu	No

ANNEX III

SHARE OF C. 87 OBSERVATIONS AND DIRECT REQUESTS RELATING TO STRIKE ISSUES AMONGST ALL C.87 OBSERVATIONS AND DIRECT REQUESTS

Year	Number of C. 87 observations relating to strike issues	% of all C. 87 observations	Number of C. 87 direct requests relating to strike issues	% of all C. 87 direct requests
2023	49	80	35	83
2022	42	80	33	86
2021 (2020 Addendum)	38	76	39	92
2020	42	72	43	83
2019	44	77	41	87
2018	33	67	47	90
2017	45	70	51	82
2016	40	71	41	82
2015	29	65	43	95
2014	30	65		
2013	55	87		
2012	63	86		

ANNEX F

Table of Countries Supporting the View that Right to Strike is Not Covered by ILO Convention 87

The following table contains excerpts from statements delivered on various occasions (i.e. sessions of the Governing Body and International Labour Conference), or from documents addressed to the Office, between 1973 and 2023, where governments have explicitly stated that they do not consider the right to strike to be covered by Convention 87 or have expressed reservations about such understanding.

The relevant passages of the statement or document concerned are indicated in **bold** below.

Country	Excerpts	Source
Algeria	*Finally, regarding the implementation of section 43 of Act No. 90-02 on the prevention and settlement of collective labour disputes and the exercise of the right to strike,* ***the Government observed that the Convention did not deal with the right to strike.***	ILO, Record of Proceedings, ILC 103rd Session, 2014, Part II/48.
Bangladesh	*A Government representative of Bangladesh said that, under the ILO Constitution, standard-setting was the mandate of the International Labour Conference. The 1949 resolution had not permanently delegated authority on matters relating to international labour standards to the Governing Body, and there was considerable doubt as to whether the word "activities" in the resolution included direct or indirect standard-setting. The Conference must have full jurisdiction; the Governing Body could not presume a permanent authority in that regard. Referral to the ICJ was a last resort and should not be invoked at present. The inherent authority of the Conference on matters of standard-setting must not be diluted. The 1949 resolution did not require the Conference to approve the Governing Body's decision to refer a matter to the ICJ since the Governing Body's mandate in that regard had been bestowed by the Conference itself. The ILO's internal dispute resolution procedures had not yet been exhausted; it would therefore be necessary to resort to the supreme authority of the Conference.* ***The right to strike was not explicitly mentioned in Conventions Nos 87 or 98. Legal obligations must be explicitly stated in legislation or in a Convention; if there was no such statement, therefore, the legal obligation did not exist.***	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 14, para 48.
Belarus	*The Committee notes the Government's indication that* ***the right to strike is not expressly provided for in the Instrument of the ILO; rather, the ILO supervisory bodies derive the right to strike from Article 3 of Convention No. 87, despite the fact that the legality of this interpretation has been questioned by the Employers' Group on several occasions and that under Article 37 of the ILO Constitution, any question or dispute concerning the interpretation of conventions shall be referred to the International Court of Justice,*** *the only body which has the right to interpret Conventions. [...] For the reasons expressed above, the Government disagrees with the calls of the*	CEACR, Observation, Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) - Belarus, 2020.

	Committee for the amendment of the legislation, in particular as regards section 388(4) of the Labour Code.	
Colombia	*The right to strike is one of the basic safeguards of the working class. This has been recognised in the constitutions and legislation of countries having democratic systems of government, including Colombia. However,* ***within the International Labour Organisation itself, 72 years after its establishment, no Convention of this kind has been adopted. … In reality, Convention No. 87 only deals with the right of workers and employers to establish and join organisations; the right for such organisations to draw up their constitutions and rules and elect their representatives in full freedom without being liable to be dissolved or suspended by administrative authority; and their right to establish federations or confederations.***	Letter dated 9 October 1991 from the Minister of Labour and Social Security of Colombia to the Director-General, Agenda of the 81st (1994) Session of the Conference, Annex I.
Cyprus	*Considered that that the position of a number of governments on this matter was that they could not relinquish the sovereignty of the State.* ***His own conclusion was that the Convention on freedom of association was now inadequate as far as public servants were concerned and that they should be re-examined with a view to up-dating them.***	ILO, Record of Proceedings, ILC 58th Session, 22 June 1973, p. 544, para 27.
German Democratic Republic	***In regard to the Committee of Experts' conclusion that the workers did not have the right to strike, it should be recalled that no mention was made of the right to strike in any of the provisions of the Convention.***	ILO, Record of Proceedings, ILC 72nd Session, 21 June 1986, pp. 31/33 - 32/33.
Japan	*The Government member of Japan replied that, as pointed out in the report of the Fact-Finding and Conciliation Commission on Freedom of Association relating to the case of Japan****, there was no Convention or Recommendation or other decision of the International Labour Conference defining the extent of the right to strike in the public sector.***	ILO, Record of Proceedings, ILC 58th Session, 22 June 1973, p. 544, para 26.
	*As the question of the right to strike and that concerning the list of occupational diseases both had particular characteristics which differed from country to country****. They should hence be regulated within the legal framework of each member State and not by ILO Conventions****.*	ILO, Minutes of the 253rd Session, GB. 253/PV(Rev.), 28 May 1992, p. I/18.
Morocco	*The speaker gave second priority to the question of the right to strike.* ***Since no instrument existed on the subject, there was a legal gap which had to be filled.*** *Though the right to strike was granted to workers in a large number of countries, only a few countries had fixed the modalities of its implementation.* ***It was essential to define the notion of the right to strike, since there was no such thing as an absolute right to strike. It was therefore important to define its limits, which concerned in particular the essential services.*** *Furthermore, it was important to discuss the*	ILO, Minutes of the 253rd Session, GB. 253/PV(Rev.), 28 May 1992, p. I/12- I/13.

	question in conjunction with that of the lockout and within the framework of the settlement of labour disputes. An initial general discussion could later be followed up by completing the existing standards on labour disputes by additional clauses on strike and, lockout.	
Nigeria	*Concerning item (3) on the right to strike he felt that the subject was a delicate one and* ***he was not convinced of the need for entrenching that right in a Convention (*****implying therefore that a Convention already entrenching this right did not exist)**. *Whether such a Convention existed or not, strikes would continue to occur.*	ILO, Minutes of the 253rd Session, GB. 253/PV(Rev.), **28 May 1992**, p. I/17
Sweden	*Not all aspects of Conventions were entirely clear, however,* ***and one grey area surrounded the right to strike, which was not mentioned in Conventions Nos. 87 and 98 and had not been covered in the preparatory work*** *of the International Labour Conference when it adopted them. It was universally recognised that there could be no trade union rights without the right to strike.* ***However, in some countries essential services were defined rather strictly; in others governments retained the right to impose compulsory arbitration, as in Norway.*** *In this case, the Norwegian oil workers belonged to a union that was not a party to national collective bargaining but preferred to resort to strike action in a key economic sector in order to obtain better benefits. The case as a whole underlined the usefulness of including an item on the Conference agenda concerning the settlement of labour disputes, as proposed by Mr. Oechslin.*	ILO, Minutes of the 251st Session, GB.251/PV(Rev.), 12 November 1991, p. III/8.
Switzerland	***Under Convention No. 87*** *public servants were guaranteed the right to organise but* ***that right to strike was not covered. He referred in this connection to the preparatory work leading to the adoption of Convention No. 87.***	ILO, Record of Proceedings, ILC 58th Session, 22 June 1973, p. 544, para 27.
Türkiye	*A Government representative of Türkiye expressed satisfaction with the decision to discuss the matter in a Committee of the Whole.* ***While his Government recognized the importance of safeguarding the right to strike as a fundamental labour right, it had reservations regarding the interpretation of Convention No. 87 in that respect.*** *Social dialogue was a proven and effective approach to dispute resolution and ensured that robust and sustainable solutions could be achieved with the participation of all parties. His Government therefore supported the idea of resolving the dispute through the ILO's existing mechanisms and structures rather than referring it to the ICJ, which could potentially weaken the Organization's tripartite mechanisms.*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 13, para 43.
Uruguay	***It was surprising that the Committee of Experts expressed the hope that this Regulation would contain no provisions in contradiction to Convention No. 87, because neither the latter nor any other ILO Convention dealt with the right to strike.***	ILC, Record of Proceedings, 68th Session, (1982) p. 31/47.

Venezuela	*She supported the proposal of the Minister of Labour and Social Security of Colombia in view of the fact that **the relevant ILO instruments, in particular Conventions No. 87 and No. 98, made no mention of the right to strike**. However, a trade union that had the right to negotiate without having the right to strike did not really enjoy freedom of association. **An international instrument on the right to strike was therefore essential.** In addition to this question she gave her support to items (2) on occupational diseases and (6) on tripartite consultation.*	ILO, Minutes of the 253rd Session, GB. 253/PV(Rev.), 28 May 1992, p. I/16.

ANNEX G

Table of Countries Supporting Addressing the Right to Strike through Social Dialogue

The following table provides a compilation of excerpts from governments' statements delivered during the sessions of the Governing Body and International Labour Conference, calling for continued social dialogue as the means to solve the dispute on the right to strike. This call demonstrates that a number of governments believe that the matter required - and still requires - further internal tripartite discussion for the constituents to find a sustainable solution.

The relevant passages of the statement or document concerned are indicated in **bold** below.

Country	Excerpts	Source
Arab Group[1]	*Speaking on behalf of the Arab group, a Government representative of Qatar said that the holding of two special sessions of the Governing Body on the interpretation of Convention No. 87 in relation to the right to strike reflected the importance of the matter and the intent of the ILO's tripartite constituents to resolve the long-standing dispute.* ***Dialogue within the ILO was the best way to achieve legal certainty for any dispute on the interpretation of ILO Conventions; therefore, all internal means should be exhausted before referring the matter to the ICJ.*** *There was still an opportunity to achieve consensus through social dialogue at the International Labour Conference. All Member States should be given the necessary time to consider the alternatives, including the option of standard-setting to be discussed the following day. In any case, the Conference should have the final word on the matter.*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 10, para 30.
ASEAN countries[2]	*Speaking on behalf of the Association of Southeast Asian Nations (ASEAN), a Government representative of Indonesia* ***stated that her group had chosen to address the dispute through the internal mechanism provided by the ILO, rather than resorting to the ICJ.*** *However, that should not be misconstrued as a denial of the fundamental right to strike. The provision under the ILO Constitution allowing for a referral to the ICJ in cases of differing interpretations of a Convention must be a last resort. The dispute should be resolved through internal channels to arrive at a comprehensive, agreeable and inclusive resolution. The group was confident in the collective capacity of the Conference to reach consensus internally, thereby achieving a credible solution that would enhance the ILO supervisory system.*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 10, para 28.

[1] Algeria, Egypt, Comoros, Djibouti, Iraq, Jordan, Lebanon, Saudi Arabia, Tunisia, Qatar, Somalia, Sudan, United Arab Emirates, Yemen.
[2] Brunei, Burma (Myanmar), Cambodia, Timor-Leste, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand and Vietnam.

ASPAG[3]	*Speaking on behalf of ASPAG,* ***a Government representative of China reiterated that dispute resolution was best achieved through tripartite discussions. He considered that governments had not yet been part of tripartite discussions in the Governing Body or the ILC.*** *His group was concerned that referral to the ICJ would take the matter outside of ILO hands and could destroy the good practice of tripartism.* ***ASPAG supported the Employers' proposal for tripartite discussions to find a long-term solution to the issues surrounding the right to strike*** *and that should be done by June 2015.* ***Therefore, efforts should be made to solve the issue internally up to the last minute before turning to the ICJ. His group felt that the question of whether the right to strike was an international rule or not could be solved through time-bound tripartite discussions based on consensus.***	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 21, para 70.
Majority of countries of Asia and Pacific[4]	*Speaking on behalf of the majority of countries of Asia and the Pacific, a Government representative of* ***China*** *said* ***that any dispute in the world of work should be resolved through tripartite social dialogue where possible, including matters relating to the interpretation of ILO Conventions.*** *Article 37 was a last resort and should only be used with caution.*	ILO, Minutes of the 347th Session, GB.347/PV(Rev.), March 2023, p. 61, para 251.
Bangladesh	***He proposed that discussion continue towards achieving a consensus-based decision and that an in-house approach be taken towards interpretation matters,*** *whereby legacy, inter-institutional jurisprudence and institutional culture set the right direction.*	ILO, Minutes of the 347th Session, GB.347/PV(Rev.), March 2023, p. 63, para 264.
	A Government representative of Bangladesh said that, under the ILO Constitution, standard-setting was the mandate of the International Labour Conference. The 1949 resolution had not permanently delegated authority on matters relating to international labour standards to the Governing Body, and there was considerable doubt as to whether the word "activities" in the resolution included direct or indirect standard-setting. ***The Conference must have full jurisdiction;*** *the Governing Body could not presume a permanent authority in that regard.* ***Referral to the ICJ was a last resort and should not***	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 14, para 48.

[3] Afghanistan, Australia, Bahrain, Bangladesh, Brunei Darussalam, Cambodia, China, Fiji, India, Indonesia, Iran, Islamic Republic of Iraq, Japan, Jordan, Kiribati, Republic of Korea, Kuwait, Lao People's Democratic Republic, Lebanon, Malaysia, Maldives, Republic of, Marshall Islands, Mongolia, Myanmar, Nepal, New Zealand, Oman, Pakistan, Palau, Papua New Guinea, Philippines, Qatar, Samoa, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Syrian Arab Republic, Thailand, Timor-Leste, Tuvalu, United Arab Emirates, Vanuatu, Viet Nam, Yemen.

[4] Afghanistan, Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Cook Islands, Fiji, India, Indonesia, Islamic Republic of Iran, Japan, Kiribati, Korea, Republic of Lao People's Democratic Republic, Malaysia, Maldives, Republic of, Marshall Islands, Mongolia, Myanmar, Nepal, New Zealand, Pakistan, Palau, Papua New Guinea, Philippines, Samoa, Singapore, Solomon Islands, Sri Lanka, Thailand, Timor-Leste, Tonga, Tuvalu, Vanuatu, Viet Nam.

	be invoked at present. *The inherent authority of the Conference on matters of standard-setting must not be diluted. The 1949 resolution did not require the Conference to approve the Governing Body's decision to refer a matter to the ICJ since the Governing Body's mandate in that regard had been bestowed by the Conference itself.* ***The ILO's internal dispute resolution procedures had not yet been exhausted; it would therefore be necessary to resort to the supreme authority of the Conference.*** *The right to strike was not explicitly mentioned in Conventions Nos 87 or 98. Legal obligations must be explicitly stated in legislation or in a Convention; if there was no such statement, therefore, the legal obligation did not exist.*	
Botswana	*It should be ILO constituents who decided on the ILO's objectives.* ***Her Government therefore supported an approach that would emphasize social dialogue as the ideal means of resolving disputes.***	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 28, para 112.
Brazil	*A Government representative of Brazil recalled that responsibility for adopting and supervising the application of standards rested primarily with tripartite constituents convened at the International Labour Conference. While the ILO Constitution provided for alternatives to that process,* ***social dialogue had long been the preferred method of dispute resolution at the ILO and no attempts should be made to block that process****. He supported the amendment proposed by the Employers' group.*	ILO, Minutes of the 344th Session, GB.344/PV, March 2022, p. 46, para 155.
Cameroon	*A Government representative of Cameroon said that* ***tripartism, the principle at the heart of the ILO, remained the best way to resolve the dispute and secure legal certainty regarding the interpretation of Convention No. 87 and the right to strike****. Her Government was convinced that there was still scope to resolve the issue internally. Referral to the ICJ should be a measure of last resort once all internal avenues for tripartite dialogue had been exhausted, and would thus be a premature move at the present juncture. In the interest of peace, social justice and democracy, all Member States – especially those that had ratified Convention No. 87 – should be able to participate in discussions and decision-making on whether to refer the matter to the ICJ. The matter should therefore be placed on the agenda of the forthcoming session of the International Labour Conference, which should make the final decision.*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 14, para 50.

China	***A Government representative of China said that his Government was in favour of pursuing dialogue in order to resolve the issue under consideration. It was only if that dialogue proved fruitless that consideration should be given to adopting the measures set out in article 37 of the Constitution. In the end, if recourse to the ICJ was supported by the majority, they would not object.***	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 24, para 92.
	*A Government representative of China recognized the long-standing issues relating to the interpretation of Conventions and the need for legal certainty to ensure the stability and credibility of the supervisory system. The implementation of article 37 should be the basis of any such work, and no legislative process should be established. …**The Chinese Government reiterated that [social dialogue] was the only channel for resolving disputes and ensuring the functioning of the supervisory mechanism, by strengthening cooperation and avoiding confrontation. He urged the Office to explore other alternative institutional arrangements. China supported the draft decision as amended by the Employers' group.***	ILO, Minutes of the 347th Session, GB.347/PV(Rev.), March 2023, p. 62, para 258.
	*A Government representative of China said that the International Labour Conference should make the final decision on any recommendations or conclusions reached by the Governing Body at its current session. **His Government maintained the position that disputes should be resolved through consultation and dialogue. Referring the dispute to the ICJ was not the only option for the Organization, much less the best option.** The ILO should further improve its internal mechanisms in a spirit of tripartism and inclusive social dialogue to reach comprehensive workable solutions that addressed the concerns of all parties.*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 14-15, para 54.
Colombia	*Her Government was convinced **that social dialogue could provide a path to consensus** and therefore supported the amendment proposed by the Employers' group.*	ILO, Minutes of the 344th Session, GB.344/PV, March 2022, p. 46, para 154.
Indonesia	*A Government representative of Indonesia said that her Government **fully supported the reactivation of tripartite consultations. Problems within the ILO should be resolved using available mechanisms** and the Organization should avoid creating a precedent by referring the question of the right to strike in relation to Convention No. 87 to the ICJ.*	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 28, para 108.

Iran	*His Government disagreed that tripartite discussions on the right to strike had already failed.* ***Tripartism should be given a real opportunity based on mutual trust and willingness among constituents.***	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 26, para 101.
Japan	*A Government representative of Japan said that the supervision of standards was the Organization's most essential function. It was inappropriate to apply to the ICJ immediately. First, the ICJ would not be able to deliver a fundamental solution as, even after receiving the advisory opinion, the ILO would need to continue consultations on how to deal with the opinion in-house. Such consultation would not be successful unless mutual trust between the Employers and the Workers was restored. Second, the established practice of tripartite decision-making within the ILO would be seriously damaged by the request, as it would be akin to declaring to the international community that the ILO had no ability to solve its own problems. At the same time, Japan did not favour continuing consultations without any prospect of compromise****. It could support consultations with a concrete and focused procedure with a fixed time frame. To create new dynamics so as to advance discussions in a tripartite framework, his Government proposed adopting a tripartite resolution on the agreed interpretation of Convention No. 87 at the session of the ILC in June 2015.***	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 26, para 99.
	Reiterated that exhaustive tripartite discussions leading to consensus were the best way of moving forward on the issue. ***emphasized the importance of moving forward on the issue. Tripartite discussion must be the basic principle for any difficult problem, but then the need to solve a problem must be recognized. The proposed procedural framework for referral under article 37(1) could be a basis for consensus in the Governing Body.***	ILO, Minutes of the 347th Session, GB.347/PV(Rev.), March 2023, p. 63, para 262.
Jordan	*A Government representative of Jordan* ***observed that no real tripartite discussions had so far been held and that the active participation of governments could help diffuse tensions.*** *Any decision or opinion from the ICJ would come back to the Governing Body for implementation, and there could be a problem of interpretation of the decision which could create further difficulties.* ***Constituents should continue giving a chance to tripartism as a fundamental pillar of the Organization.***	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 27, para 116.

Lesotho	***A Government representative of Lesotho said that social dialogue, a central pillar of the ILO, should be given a chance****. Referring the matter to the ICJ would signal the erosion of the spirit of tripartism.* ***Existing mechanisms should be used and internal solutions exhausted before turning to external remedies***	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 29, para 114.
Pakistan	*A Government representative of Pakistan stressed the importance of tripartism and dialogue within the ILO. He asked whether an international norm recognized by one legal instrument, such as the right to strike within the International Covenant on Social, Economic and Cultural Rights, should be recognized by others without further consideration. As a human rights standard, the right to strike should be considered as a labour standard. In terms of implementation and supervision, he said that the supervisory system guided the implementation of such standards, but that the stipulations made by supervisory bodies were advisory, and they were unable to create new obligations.* ***He expressed the hope that the current dispute could be resolved through negotiation and dialogue.***	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 16, para 62.
Paraguay	*A Government representative of Paraguay said that the right to strike or engage in work stoppages was explicitly recognized in his country's constitution for both public and private sector workers, and also for employers, but did not extend to members of the armed forces, the police or essential public services.* ***It was important to resolve any disputes within the Organization through social dialogue. He therefore urged the Governing Body to continue efforts to promote cooperation on tripartite initiatives.***	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 11, para 36.
Poland	***It was therefore necessary to find a practical solution as quickly as possible through "trialogue" and consensus rather than referring the matter to the ICJ.*** *However, if a general agreement was reached within the house on the referral to the Court, his Government was ready to support it in a spirit of consensus.*	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 29, para 115.
Russian Federation	*A Government representative of the Russian Federation said that the use of external measures to resolve internal differences should only be considered as a last resort, and that* ***internal social dialogue mechanisms had not yet been exhausted in the current case. The dispute had not been considered by the International Labour Conference, and as such a majority of Member States had been unable to participate in discussions on the matter****. While he recognized that the Governing Body had been authorized to request advisory opinions of the ICJ, it was also true that the membership and decision-making procedures of the ILO had evolved significantly and as such the 1949 resolution did not automatically*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 16-17, para 63.

	provide grounds for such action. Moreover, no time frame had been set for dialogue, and the dispute had gone beyond interpretation to encompass institutional aspects of the functioning of the ILO. Finally, he did not agree that an advisory opinion of the ICJ would provide legal certainty. Such an opinion was, by nature, advisory, and would inevitably lead to future disputes about its legal nature. He therefore did not support the proposal to refer the dispute to the ICJ and he did not support the amendments to the draft decision proposed by the Government representative of Colombia on behalf of a cross-regional group of countries.	
Sudan	*A Government representative of Sudan noted the request of the Workers' group to seek an advisory opinion from the ICJ on the interpretation of Convention No. 87 and the right to strike. He said that a referral to the ICJ should only be made when all other mechanisms had been exhausted, including a discussion at the International Labour Conference in which all Member States could participate**. He expressed the hope that such a discussion would provide legal clarity and certainty and protect the principle of social dialogue.** He proposed that the Governing Body should set a time frame for those discussions so that further steps could be taken if necessary.*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 17, para 64.
Tunisia	***Dialogue was an effective way to arrive at consensual decisions, which were more likely to be accepted and applied.** The matter should therefore be included on the agenda of the forthcoming session of the International Labour Conference, which would allow discussions to continue in an inclusive manner. The Conference must have the opportunity to give its view on any Governing Body decision. While the 1949 resolution authorized the Governing Body to request an opinion from the ICJ, it did not prevent the Conference from making decisions on whether to refer matters thereto. In highlighting that fact, she was not intending to cast doubt on the legitimacy of the Governing Body's role in the process, but pointing out that some issues were of such importance that they deserved to be examined by all Member States. It would be crucial to bear in mind that it was not for the ICJ to make judgments on matters beyond the scope of article 37(1) of the Constitution.*	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 12-13, para 42.
Türkiye	*A Government representative of Turkey said that **before considering recourse to the ICJ, the Governing Body should explore all ways of reaching a solution through tripartite consensus.** Article 37 of the ILO Constitution did not classify or specify the disputes to be referred to the ICJ or a tribunal, and the draft statute concerning the latter provided no*	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 27, para 103.

	further clarification or legal criteria. *His delegation was prepared to support referral to the ICJ,* ***although it would have been preferable if the social partners had found a solution based on dialogue.***	
	*A Government representative of Türkiye expressed satisfaction with the decision to discuss the matter in a Committee of the Whole. While his Government recognized the importance of safeguarding the right to strike as a fundamental labour right, it had reservations regarding the interpretation of Convention No. 87 in that respect****. Social dialogue was a proven and effective approach to dispute resolution and ensured that robust and sustainable solutions could be achieved with the participation of all parties. His Government therefore supported the idea of resolving the dispute through the ILO's existing mechanisms and structures rather than referring it to the ICJ, which could potentially weaken the Organization's tripartite mechanisms.***	ILO, Minutes of the 349th bis (Special) Session, GB.349bis/PV, 10 November 2023, p. 13, para 43.
United Arab Emirates	*A Government representative of the United Arab Emirates said that the resolution of disputes among ILO constituents could and should be achieved through* ***constructive dialogue within the ILO.*** *Resorting to external mechanisms would place the future of tripartite dialogue at risk and adversely affect the credibility of the ILO as a leading UN organization.* ***His delegation called for continued dialogue on a tripartite basis and the appointment of a working party to formulate recommendations for reaching consensus.***	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 25, para 94.
Zimbabwe	***Tabling the issue of the right to strike for discussion at the following session of the ILC would enable an inclusive tripartite discussion and provide the Organization with direction, either to resolve the matter internally or, once all internal mechanisms had been exhausted, through the ICJ.***	ILO, Minutes of the 322nd Session, GB.322/PV, October-November 2014, p. 25, para 97.

ANNEX H

CEACR Comments on the Right to Strike for Ratifying member States of ILO Convention 87

The following table gives an overview of all CEACR comments since 1989 on the right to strike for ILO member States that have ratified C87 (organised by region). The table indicates the years in which the CEACR has made (or repeated) its comments. It also indicates the specific issues with regard to which the law and practice in ratifying countries did not align with the CEACR interpretations on the right to strike. More significant CEACR comments, in which the CEACR sometimes reports government disagreement with the comments, are reproduced. Repetitions and the respective non-compliance aspects regarding the right to strike are emphasised in the text (**bold**). Dissenting opinions of governments, e.g. the insistence on the necessity of existing national laws and practices on strike action that differ from the opinion of the CEACR, or the general questioning of a guarantee of the right to strike in C87, are highlighted (**bold and underlined**).

Table of Contents

AFRICA 3
AMERICAS 70
ASIA 109
EUROPE 126

COUNTRY	YEARS	ISSUES	CEACR COMMENTS
AFRICA			
1. Algeria	2009, 2011, 2012, 2013, 2023 (Observations) 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 (Direct requests)	Scope of permitted restrictions (essential services)	**2009**: *The Committee **commented previously** on section 43 of Act No. 90-02 under which strikes are forbidden not only in essential services the interruption of which would endanger the life, personal safety or health of the population, but also **when the strike "is liable to give rise to a serious economic crisis".** Noting the Government's reply that this expression, set forth in section 43, is similar to the expression used by the Committee, which refers to "**strikes which, by reason of their scope and duration, could lead to a national crisis",** the Committee asked the Government to take steps to amend the legislation or to adopt a regulatory text that would clarify this point along the lines indicated by the Government. The Committee observes that the Government's last report contains no information on measures taken to this end. Consequently, **the Committee again asks** the Government to adopt a text amending section 43 of Act No. 90-02 or a regulatory text stating expressly that strikes are forbidden in essential services the interruption of which may endanger the life, personal safety or health of the population, or where the strike, by reason of its scope and duration, could lead to a serious national crisis.*
	2009, 2011, 2012, 2013, 2022, 2023 (Observations) 2017, 2018, 2019, 2020, 2021, 2022 (Direct requests)	Compulsory arbitration	**2009**: *Lastly, **the Committee commented previously** on section 48 of Act No. 90-02 which empowers the Minister or the competent authority, where the strike persists and mediation has failed, or where imperative economic or social need so require, to refer the dispute to the National Arbitration Commission after consulting the employers' and workers' representatives. The Committee requested the Government to take measures without delay to ensure that the National Arbitration Commission may be called upon to **end a collective labour dispute only at the request of both parties and/or in the event of a strike in essential services in the strict sense of the term, or in the event of a strike the scope and duration of which are liable to cause an acute national or local crisis, or in the event of a dispute in the public service involving public servants exercising authority in the name of the State**. The Committee notes that in its report the Government provides further details of the arbitration procedure, indicating in particular that pursuant to section 11 of*

			Executive Decree No. 90-148 of 22 December 1990, the application to the National Arbitration Commission must include a submission setting out the imperative economic and social needs requiring referral of the dispute, and it must also set out the arguments as to the advisability of referral put forward by the employer and the representatives of the workers concerned by the dispute. It further notes that in its last report, the Government states that the amendment to section 48 of Act No. 90-02 requested by the Committee will be dealt with in the context of the draft Labour Code. The Committee requests the Government to provide information on developments in this regard, in particular on any amendments, introduced in the context of the planned legislative reform, to section 48 of Act No. 90-08 to ensure that recourse may be had to the National Arbitration Commission only in the instances set out above.
2. Angola	2003, 2005, 2006, 2007, 2009, 2011, 2013, 2014, 2015, 2016, 2019, 2020, 2023 (Direct requests)	Work to rule, go slow strikes	**2003***: The Committee notes that section 2.2 of Strike Act No. 23/91 (hereinafter, the Strike Act) provides that* ***any reduction or alteration of the timing and methods of work*** *agreed collectively that does not imply a refusal to work* ***is not considered a strike*** *and is in consequence subject to disciplinary action. The Committee has recalled that any work stoppage, however brief and limited, may generally be considered as a strike. This is more difficult to determine when there is no work stoppage as such but a slowdown in work (go-slow strike) or when work rules are applied to the letter (work to rule); these forms of strike action are often just as paralysing as a total stoppage. The Committee is therefore of the opinion that restrictions as to the forms of strike action can only be justified if the action ceases to be peaceful (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 173). The Committee requests the Government to amend this provision so as to ensure that these other forms of collective action are not subject to disciplinary action.*
	2003, 2005, 2006, 2007, 2009, 2011, 2013, 2014, 2015, 2016, 2019, 2020, 2023 (Direct requests)	Public service	**2003**: *The Committee notes that section 6 of the Strike Act provides for the* ***prohibition of strike action for civilian workers of the military institution****. The Committee is of the opinion that a distinction should be made between those civilian workers engaged in activities related to the national defence and those that provide auxiliary work, such as cleaning, secretarial services, and catering. It requests the Government to indicate the measures taken or envisaged to ensure that the latter may have recourse to industrial action without penalty.*
	2003, 2005, 2006, 2007, 2009, 2011, 2013, 2014,	Voting quorum and majority	**2003:** *The Committee notes that section 10 of the Strike Act provides that a* ***requirement of two-thirds of the workers*** *present in the assembly is necessary to declare a strike. The Committee has considered that if a member State deems it appropriate to establish in its*

	2015, 2016, 2019, 2020, 2023 (Direct requests)		*legislation provisions which require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey, op. cit., paragraph 170). It requests the Government to indicate the measures taken or envisaged to amend section 10 so as to ensure that the number of workers necessary to declare a strike is reasonable.*
	2003, 2005, 2006, 2007, 2009, 2011, 2013, 2014, 2015, 2016, 2019, 2020, 2023 (Direct requests)	Control of strike ballots	**2003:** *The Committee further notes that this section provides for the right of the employer to request the presence of the public authority at an assembly for the calling of a strike in order to verify the regularity of its constitution and the adoption of the decisions. The Committee considers that workers should be free to organize their administration and activities and to formulate their programmes without interference from the public authorities and that any* ***control of strike ballots*** *should be carried out by independent authorities. It therefore requests the Government to indicate the measures taken or envisaged to amend this provision in this regard.*
	2003, 2005, 2006, 2007, 2009, 2011, 2013, 2014, 2015, 2016, 2019, 2020, 2023 (Direct requests)	Requisitioning of workers	**2003:** *The Committee notes that section 20.3 of the Strike Act provides for the* ***requisitioning of workers in the case of strikes in services that go beyond the definition of essential services in the strict sense of the term*** *(those the interruption of which might endanger the life, personal safety or health of the whole or part of the population). In this regard, the Committee recalls that it does not consider post offices, fuel distribution, collective transportation and the loading and unloading of foodstuffs as essential services. The Committee considers that recourse to striker replacements seriously impairs the right to strike and affects the free exercise of trade union rights. It therefore requests the Government to amend this provision in order to allow the requisitioning of workers only to ensure the operation of essential services in the strict sense of the term.*
	2003, 2005, 2006, 2007, 2009, 2011, 2013, 2014, 2015, 2016, 2019, 2020, 2023 (Direct requests)	Sanctions (imprisonment and fines)	**2003:** *The Committee notes that section 27 of the Strike Act provides for* ***sanctions of imprisonment and fines*** *for the organizers of a strike that has been forbidden, declared illegal or suspended. The Committee considers that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association. Moreover, the application of disproportionate penal sanctions does not favour the development of harmonious and stable industrial relations. If measures of imprisonment are to be imposed at all they should be justified by the seriousness of the offences committed. In any case, a right to appeal should exist in this respect (see General Survey, op. cit., paragraph 177). The Committee requests the Government to indicate the measures taken or envisaged to ensure that workers are not*

			sanctioned for legitimate industrial action and that sanctions of imprisonment are only resorted to in the case of violent acts of a criminal nature.
	2003, 2005, 2006, 2007, 2009, 2011, 2013, 2014, 2015, 2016, 2019, 2020, 2023 (Direct requests)	Sympathy and general strikes	**2003:** *Section 3 of the Strike Act does not refer to* ***sympathy strikes or protest actions for economic and social policy considerations affecting workers****. The Committee requests the Government to indicate whether such strike action can be exercised without penalty.*
	2003, 2005, 2006, 2007, 2009, 2011, 2013, 2014, 2015, 2016, 2019, 2020, 2023 (Direct requests)	Minimum service and compulsory conciliation	**2003:** *n Subsection 8.1 provides that the right to strike of workers in ports, airports, railways, air and maritime transport and any other enterprise that provides services or goods that are essential for the army shall be exercised in a manner that does not affect the supplies necessary for the national defence. The Committee requests the Government to indicate the manner in which the* ***level of the necessary supplies and the minimum services required*** *for their provision are established.* *n Subsection 8.2 provides that in the above case the period of negotiation shall be increased to 30 days and that the* ***conciliation and mediation procedures*** *provided by the Ministry of Labour, Public Administration and Social Security, as set out in section 14,* ***are compulsory.*** *The Committee requests the Government to indicate the manner in which this provision is applied.*
	2003, 2005, 2006, 2007, 2009, 2011, 2013, 2014, 2015, 2016, 2019, 2020, 2023 (Direct requests)	Suspension of the right to strike	**2003:** *n Subsection 8.4 provides for the* ***suspension of the right to strike*** *by a resolution of the Ministerial Council* ***in the event of situations affecting the public order or public calamities****. These provisions may be extended by decision of the People's Assembly. The Committee requests the Government to indicate the precise meaning of the phrase "situations affecting the public order or public calamities" and the circumstances and the number of occasions in which this provision has been applied. The Committee recalls that repeated recourse to the suspension of strikes by means of a resolution of the Ministerial Council or the People's Assembly could be an obstacle to the right of workers to go on strike. The Committee considers that measures of this nature should be adopted by an independent authority, such as the judiciary.*
	2003, 2005, 2006, 2007, 2009, 2011, 2013, 2014, 2015, 2016, 2019, 2020, 2023	Compulsory arbitration	**2003:** *Finally, the Committee observes that sections 20 and 28 of Act No. 20-A/92 provide that collective* ***disputes in public utility enterprises may be settled by the Ministry of Labour,*** *Public Administration and Social Security. Recalling that* ***compulsory arbitration*** *should only be possible in the case of essential services or for public servants exercising*

	(Direct requests)		*authority in the name of the State, the Committee requests the Government to indicate the manner in which this article is applied, especially taking into account section 20 of the Strike Act which provides that workers and trade union bodies are under the obligation to provide the necessary services, through pickets, in order to satisfy the basic needs of the population. The Committee further requests the Government to indicate the precise meaning of the term "pickets" in this context, and the manner in which the minimum services required in such cases are established.*
3. Benin	1989, 1991, 1992, 1994 (**said to be implemented but no proof provided**), 1995, 1996 (Direct requests) 1997, 1998, 2000, 2005, 2019, 2023 (Observations)	Restriction or right to strike for prejudice to the economy – essential services	**1989:** *The Committee notes that section 8 of Ordinance No. 69-14 of 19 June 1969 concerning the exercise of the right to strike provides, amongst other measures, that **the personnel of public or private enterprises, organisations and establishments whose operation is necessary to the life of the nation**, may be deprived of their right to resort to strike when the interruption of their service could be prejudicial to the economy and the overriding interests of the nation.* **1997:** *The Committee asks the Government to indicate the public or private establishments, organisations or enterprises whose operation is necessary to the life of the nation and the circumstances in which, in the opinion of the Government, the interruption of the services of these establishments is liable to be prejudicial to the economy and the overriding interests of the nation. It also requests the Government to provide information on the cases in which this provision has been applied.*
	1998, 2000, 2016 (Direct requests)	Compulsory arbitration	**1998:** *The Committee notes that according to sections 256 and 257 of the Labour Code of 1998, in cases where conciliation fails, the dispute is submitted to compulsory arbitration. The Committee however notes that **it is not specified in which delay the arbitration council must render its decision**. In this regard, the Committee requests the Government to indicate in its next report what are the delays in practice concerning the decisions rendered by the arbitration council.*
	2016 (Direct requests) 2000, 2002, 2003, 2005, 2019, 2023 (Observations)	Prior notice on duration of strikes and limit on the duration	**2016:** *The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, regarding, inter alia: (iii) the **obligation to notify the duration of a strike and the particularly long list of basic services for which the right to strike is prohibited**, under Act No. 2001-09 of 21 June 2002 on the exercise of the right to strike. The Committee requests the Government to provide its comments in response to the ITUC's observations.*

			2019: *The Committee notes that the exercise of the right to strike is subject to certain conditions of duration. Strikes may not exceed ten days in any one year; seven days in a six-month period; and two days in the same month. Regardless of the duration, the stoppage of work during a day shall be considered as a full day of strike action (new section 13). The Committee considers that workers and their organizations* ***should be able to call a strike for an indefinite period if they so wish*** *(see the 2012 General Survey, paragraph 146).*
	2000, 2002, 2003 (Observations)	Seafarers	**2000**: *The Committee notes that section 2 of the Labour Code excludes seafarers from its application and stipulates that they are covered by the 1968 Merchant Marine Code. Noting that the Merchant Marine Code (Ordinance No. 38 PR/MTPTPT of June 1968)* ***does not grant seafarers either the right to organize or the right to strike****, which in an intrinsic corollary of trade union rights, and provides for sentences of imprisonment for breaches of labour discipline (sections 209, 211 and 215), the Committee again requests the Government to ensure that seafarers benefit from the guarantees of the Convention and to keep it informed of measures taken in this respect.*
	2019, 2023 (Observations)	Sympathy strikes	**2019:** *The Committee notes that* ***sympathy strikes are prohibited*** *(new section 2). The Committee recalls that it considers that a general prohibition of this form of strike action could lead to abuse, particularly in the context of globalization characterized by increasing interdependence and the internationalization of production, and that workers should be able to take such action, provided that the initial strike they are supporting is itself lawful (see the 2012 General Survey, paragraph 125).*
4. Botswana	2001 (Direct request)	Sympathy strikes	***2001:*** *The Committee notes that under section 35 of the Trade Disputes Act, the Minister has a* ***discretionary power to declare unlawful sympathetic or other industrial action having other purpose in addition to the furtherance of a trade dispute****. The Committee recalls that workers should be able to take sympathy action provided that the initial strike they are supporting is itself lawful. Furthermore, in the view of the Committee, organizations responsible for defending workers' socio-economic and occupational interests should, in principle, be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and on workers in general, in particular as regards employment, social protection and the standard of living (see 1994 General Survey, paragraphs 165 and 168). It requests the Government to amend its legislation in order to ensure that organizations responsible for defending workers' interests may have recourse*

			to sympathy or protest action and keep it informed of measures taken or envisaged in this regard.
	2001, 2002, 2003, 2004, 2005 (Direct requests) 2006, 2007, 2009, 2010, 2011, 2013, 2016, 2017, 2018 (essential services deleted from the list in 2019) (Observations)	Essential services and compulsory arbitration	***2001:*** *The Committee notes that section 9(1)(a) of the Trade Dispute Act, read together with section 37, empowers the Minister to refer trade union disputes to the Industrial Court in cases when he or she has declared an industrial action to be unlawful or to declare such action unlawful after the Industrial Court has reached its decision, which appears to have the impact of banning strike action in such cases. Section 9(c) of the Act empowers the Minister to refer trade disputes to the Industrial Court when "the dispute has or may jeopardize the essentials of life or livelihood of the people of Botswana". The Committee wishes to recall in this regard that the imposition of compulsory arbitration is only acceptable in cases of strikes in essential services in the strict sense of the term, namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population, or in cases of acute national crises. The Committee therefore* ***requests the Government to delete the reference to "livelihood" in section 9(1)(c) of the Act which it considers goes beyond the notion of essential services and to limit the powers of the Minister under sections 9(1)(a) and 37 to essential services in the strict sense of the term****. As for the sanctions imposed by the Trade Dispute Act for "unlawful industrial action", including industrial action which the supervisory bodies consider the workers should have the right to call, section 39 provides for a fine or imprisonment up to three months, or both. In this regard, the Committee wishes to recall that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association. Such sanctions should not be disproportionate to the seriousness of the violation (see 1994 General Survey, paragraphs 177-178).* ***2006****: The Committee notes that sections 9(1)(b), 13 and 14 of the Trade Disputes Act empower the Commissioner and the Minister to refer a dispute in essential services to arbitration or to the Industrial Court for determination. The Committee notes further that the list of essential services specified in the Schedule of the Trade Disputes Act includes, among others, the Bank of Botswana, railways services, and the transport and telecommunications services necessary to the operation of all of these services. The Committee recalls that compulsory arbitration to end a collective labour dispute and a strike is acceptable if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted or banned, such as in the case of disputes in the public*

			service involving public servants exercising authority in the name of the State, or in essential services in the strict sense of the term. The Committee notes the Government's indication that it included the Bank of Botswana in the list of essential services due to its critical role in the shaping of economic policy to promote economic stability and development, and that the stoppage of services rendered by the Bank would lead to an acute national crisis. In this connection, ***the Committee once again recalls that the essential services are only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population****. The Committee recalls that, in order to avoid damages which are irreversible or out of all proportion to the parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum service in other services which are of public utility rather than impose an outright ban on strikes (see General Survey of 1994 on freedom of association and collective bargaining, paragraphs 159-160).* ***The Committee requests the Government to amend the Schedule of the Trade Disputes Act in the light of the abovementioned principles****.*
	2017, 2018, 2019, 2020 (Direct requests)	Requisitioning of workers	***2017: amend section 43(3) of the TDA*** *(prohibiting an employer to hire workers to replace striking or locked-out workers only if the parties have concluded an agreement on the provision of minimum services or, if no such agreement has been made, within 14 days of the commencement of the strike),* ***so as to limit the powers to hire external replacement workers to cases of acute national crisis, to essential services in the strict sense of the term and to cases where minimum service can be imposed*** *(services in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population or public services of fundamental importance) and not to make its prohibition subject to the conclusion of an agreement on minimum services (in this regard, the Committee recalls that while, if they so wish, workers' organizations should be able to participate in defining the minimum services, any disagreement on this issue should be solved by a joint or independent body);*
	2017, 2018, 2019, 2020 (Direct requests)	Picketing	***2017: amend section 43(4) of the TDA*** *(prohibiting picketing if the parties have concluded an agreement on the provision of minimum services or, if no such agreement has been made, within 14 days of the commencement of the strike or lockout),* ***so as to allow pickets to take place also in the absence of an agreement on the provision of minimum services and at any time after the commencement of the strike or lockout****.*

5. Burkina Faso	1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2003, 2005 (Observations)	Public servants	***1990:*** *With reference to its previous comments and to the observations of the Trade Union Confederation of Burkina Faso (CSB) dated 21 April 1987, the Committee takes note of Zatu No. AN VI-008/FP/TRAV dated 26 October 1988 containing the general conditions of service of public employees, transmitted by the Government with its report.* *The Committee notes that the new Zatu repeals Zatu No. AN IV-011 BIS CNR-TRAV of 25 October 1986, which was the subject of its comments and the observations of the CSB. The provisions of the former Zatu, which referred to criteria of political allegiance for public employees and were liable to endanger the principles of trade union freedom, have not been reproduced in the Zatu of 26 October 1988. Public servants now enjoy the civil liberties guaranteed to all citizens of Burkina Faso and, accordingly, they enjoy the right to organise, the right to bargain collectively and the right to strike (sections 47, 52 and 53 of Zatu No. AN VI-008/FP/TRAV). However, public servants remain under the obligation to respect the revolutionary order, and several advisory bodies, including the Disciplinary Council, are composed of representatives of the Government, the trades unions and the revolutionary committees (sections 6, 7, 9 and 36 of Zatu No. AN VI-008/FP/TRAV).* ***The Committee also notes that the probationary period for public servants lasts for one year, that it may be extended once for an identical period (section 24) and that the right to strike does not apply during the trial period (section 27).*** *As regards the obligation for public servants to respect the revolutionary order, the Committee recalls the importance it attaches to the relationship between civil liberties and trade union rights. It stresses in particular that special importance attaches to the right to express thoughts freely as an integral part of the freedom which trade union organisations, including those of public servants, should enjoy and that the public authorities must refrain from any interference which would restrict this right or impede the lawful exercise thereof (Article 3 of the Convention).* ***The Committee asks the Government to provide information on the application, in practice, of these provisions, so that it can ascertain their scope****.* ***2003****: While noting the information communicated by the Government on draft legislation that is being finalized to issue a new Labour Code, the Committee draws to the attention of the Government that its request related to sections 1 and 6 of Act No. 45-60/AN regulating the right to strike of public servants and state employees, whose conditions of work have been governed, until now, by a specific law (Act No. 013/98/AN of 28 April 1998 issuing the rules governing jobs and employees in the public service) and not by the*

			Labour Code. ***The Committee therefore requests the Government to indicate whether and to what extent the draft legislation to issue a new Labour Code is to be applicable to employees in the public service, particularly in respect of the exercise of the right to strike, and to further indicate the measures taken or envisaged to amend or repeal sections 1 and 6 of Act No. 45-60/AN****, if it is to remain in force after the new Labour Code has been issued. Moreover, the Committee requests the Government to continue to keep it informed of any decision to requisition workers that may have been taken in accordance with section 6. Finally, the Committee requests the Government to provide a copy of the new Labour Code as soon as possible.*
	1997, 1998, 1999, 2000, 2002, 2003, 2005, 2006, 2007, 2009, 2010, 2011, 2012, 2016, 2019, 2023 (Observations)	Requisitioning	***1997:*** *Furthermore, the Committee draws the Government's attention to sections 1 and 6 of Act No. 45-60/AN of 25 July 1960 regulating the right to strike of civil servants and state officials regarding the Government's right to requisition in the event of a strike by civil servants.* ***The Committee considers it necessary to restrict the public authorities' powers of requisition to cases in which the right to strike can be limited or prohibited, namely to services whose interruption would endanger the life, personal safety or health of the whole or part of the population, or in a situation of acute national crisis*** *(see paragraphs 152 and 159 of the 1994 General Survey on freedom of association and collective bargaining).*
6. Burundi	1998, 1999 (Direct requests)	Restriction by public authority	***1998****: The Committee notes that it has always held the opinion that strike action is an intrinsic corollary of the right to organize. In light of the fact that the series of compulsory procedures prior to taking strike action laid down in the Labour Code would suggest that* ***the Minister is empowered to prohibit any strike, the Committee has difficulty in understanding how the provisions respecting the right to organize may be applied and would be grateful if the Government would clarify this point****.*
	1998, 1999, 2003, 2005, 2007, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2019, 2020, 2023 (Direct requests)	Voting requirements and length of a strike	***1998****: Furthermore, the Committee notes that pursuant to section 213 of the Labour Code, a strike is legal after a vote approved by a simple majority of the employees of the workplace or the enterprise.* *In this regard, the Committee considers that if a member State deems it appropriate to establish in its legislation provisions which* ***require a vote by workers before a strike can be held****, it should ensure that* ***account is taken only of the votes cast****.* ***The Committee requests the Government to include in its next report information on the practical application of the provisions laid down under the sections respecting the right to strike and the settlement of collective disputes and to provide information in respect of the number of strikes and the sectors in which strikes were called for the period***

			covered by the report. *It also requests the Government to indicate any measures taken or envisaged to ensure that the requirements for a vote before a strike can be held are reasonable.* ***2003****: The Committee duly notes that the right to strike of public servants is recognized, with the exception of holders of public office and those responsible for grading, by virtue of section 27 of the Act. The Committee notes however that, for a strike to be legal, it has to fulfil a number of conditions, including: (1) prior notification must be given specifying the length of the strike, in accordance with section 30; and (2) it must be called by a group of public servants, whether or not they are unionized, after approval by an absolute majority of the personnel of the public service concerned, in accordance with section 31 of the Act. The Committee considers that imposing a legal obligation on workers and their organizations to specify the length of a strike may limit their right to organize their administration and activities and formulate their programmes in full freedom. With regard to the approval of the strike by the absolute majority of the personnel in the public service concerned, although the principle of such approval is not incompatible with the Convention, the Committee emphasizes that the ballot method, the quorum and majority required should not be such that the exercise of the right to strike becomes very difficult in practice. The requirement of an absolute majority of all the personnel has always been deemed excessive by the Committee; if a member State deems it appropriate to establish in its legislation provisions which require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the quorum and majority are fixed at a reasonable level (General Survey, op. cit., paragraph 170). T**he Committee therefore requests the Government to take the necessary measures to amend sections 30 and 31 in order to ensure, on the one hand, that there is no obligation to specify the length of the strike in the strike notice and, on the other hand, that prior approval of the strike requires only a simple majority of the votes cast.**
	2003, 2004, 2005, 2007, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2019, 2020, 2023 (Direct requests)	Sympathy strikes	***2003****: The Committee notes that section 39 prohibits sympathy strikes. The Committee considers that a* ***general prohibition of sympathy strikes, for public servants not exercising authority in the name of the State and who therefore have the right to strike, could lead to abuse****. The workers concerned should be able to take such action provided that the initial strike they are supporting is itself lawful (see General Survey, op. cit., paragraph 168).* ***The Committee therefore requests the Government to take the***

			necessary measures to limit the application of section 39 to public servants exercising authority in the name of the State.
	2003, 2004, 2005, 2007, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2019, 2020, 2023 (Direct requests)	Compulsory arbitration	*The Committee notes that sections 32 and 35 of the Act address collective disputes and the procedures to be followed. It notes that, during a strike, negotiations have to be continued between the parties or under the direction of a certified mediator chosen by agreement between the parties. In the event of a disagreement with regard to the mediator or the failure of mediation, an arbitration board shall be appointed by the Minister of Public Service at the request of one of the parties. Within four days of its appointment, the arbitration board shall issue an arbitration award which shall be notified to both parties forthwith. Section 35 provides that, in the event of conciliation the award shall be immediately enforceable. Where there is no conciliation, the dispute shall be referred to the administrative court by the losing party. The Committee recalls that public servants not exercising authority in the name of the State should enjoy the right to strike and that this right may only be restricted or prohibited in the following two cases: (1) where the public servants are engaged in essential services in the strict sense of the term, that is, services, the interruption of which would endanger the life, personal safety or health of the whole or part of the population; and (2) in the event of an acute national crisis.* ***The Committee requests the Government to indicate the effect of intervention by the Court, and in particular whether it gives rise to a binding ruling, bringing an end to the strike for public servants not considered to exercise authority in the name of the State or to work in essential services.***
7. Cabo Verde	2003, 2005, 2007, 2008, 2009, 2010 (Direct requests)	Replacement of striking workers	***2003:*** *the Committee notes that section 110(2)* ***prohibits the recruitment of workers to replace striking workers and permits the employer to conclude a contract with another enterprise for the provision of goods and services which are immobilized as a result of the strike.*** *The Committee considers that the application of subsection 2 should be confined to essential services in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population.* ***The Committee requests the Government to take the necessary measures to amend the draft Labour Code to bring it into conformity with the Convention****, and to keep it informed on this matter.*
	2003, 2005, 2007, 2008, 2009, 2010, 2011, 2016, 2017, 2019, 2023 (Direct requests)	Minimum service	***2003:*** *The Committee notes that, in the context of Case No. 2044, the Committee on Freedom of Association drew its attention to section 12 of Legislative Decree No. 76/90 (section 112(4) of the draft Labour Code), under which it is the responsibility of the employer, after hearing the views of the workers' representatives, to determine the*

			minimum service in enterprises or establishments with a view to meeting essential social needs. In this respect, ***the Committee requests the Government to take measures to amend the legislation so as to ensure that, in the event of disagreement between the parties concerning the minimum service to be provided during the strike*** *(the activities to be undertaken and the persons responsible for doing so),* ***this divergence is resolved by an independent body****. The Committee requests the Government to keep it informed of any measures adopted in this connection.* *The Committee requests the Government to keep it informed of developments relating to the draft Labour Code and to provide a copy as soon as it is adopted.*
	2009, 2010, 2011, 2016, 2017 (Direct requests)	Majority to call for a strike	***2009****: The Committee notes that section 114(2) provides that, in enterprises in which the workers are not represented by the union, a strike may be decided upon by the assembly of workers. Such an assembly shall be convened by 20 per cent of the workers, but a decision to call a strike is only valid if the majority of the workers are present in the assembly and when the majority of the workers present have voted for the strike. In this respect, the Committee recalls that, although the requirement of prior approval by a certain percentage of workers does not, in principle, raise problems of compatibility with the Convention, the ballot method, the quorum and the majority required should not be such that the exercise of the right to strike becomes very difficult in practice (see General Survey on freedom of association and collective bargaining, 1994, paragraph 170). The Committee considers that the requirement of a majority of the workers present in the assembly may be difficult to achieve.* ***The Committee therefore requests the Government to take the necessary measures to amend section 114(2) so as to reduce the majority of workers participating in the assembly that is required to vote for a strike.***
	2010, 2011, 2013, 2016, 2017, 2019, 2023 (Direct requests)	Civil requisitioning	***2010****: In its previous comments, the Committee requested the Government to amend section 127, which provides that* ***in the event of failure to comply with the provisions on minimum services, the Government may issue civil requisitioning orders.*** *The Committee notes the information from the Government to the effect that this provision has been maintained. It reminds the Government that the use of requisitioning orders other than in essential services or circumstances of the utmost gravity, constitutes a very serious violation of freedom of association. The Committee therefore once again requests the Government to take the necessary measures to amend section 127 of the Labour Code so that recourse to civil requisitioning orders may be had only for essential services in the*

			strict sense of the term or in circumstances of the utmost gravity. ***It requests the Government to provide information on any measures taken to this end in its next report.***
8. Cameroon	1989, 1991, 1994 (Observations)	Public and essential services	***1991****: **For several years**, the Committee has been pointing out that section 165(3) of the Labour Code and sections 2 and 3 of Decree No. 74/969 of 3 December 1974, which empower the authorities to requisition workers involved in a strike called in a vital sector of economic, social or cultural activity, are such as to restrict the right of workers' organisations to call a strike to defend their occupational interests.* *In its report, the Government points out that the right to strike is not prohibited in Cameroon and that a solution is found to many disputes during the procedures of conciliation and arbitration.* *While noting this information, the Committee recalls that the right to strike is one of the essential means available to workers and their organisations for the promotion and defence of their economic and social interests. However, the principle whereby the right to strike may be limited or prohibited in the public service or in essential services would become meaningless if the legislation defined these services too broadly.* ***Prohibitions should therefore be confined to public servants acting in their capacity as agents of the public authority or to services whose interruption would endanger the life, personal safety or health of the whole or part of the population.***
9. Central Africa	1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2007, 2009, 2011 (Observations)	Requisitioning	***1997****: Furthermore, the Committee draws the Government's attention to section 11 of Order No. 81/028 of 1984 concerning the Government's power of requisition in the event of a strike, when so required by the "general interest".* ***The Committee considers it necessary to restrict powers of requisition to cases in which the right to strike may be limited or even prohibited, namely in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population or in a situation of acute national crisis*** *(op. cit., paragraphs 152 and 159).*
10. Chad	1989, 1991, 1993, 1995, 1996, 1997 (Observations)	Strike suspension	***1989****: the need to repeal Ordinance No. 30 of 26 November 1975 suspending all strikes throughout the country. In its **previous observation** the Committee requested information from the Government on the progress achieved in the revision of legislative texts that was undertaken in order to implement fully the Convention. The Committee indeed noted the assurances given by the Government that Ordinance No. 001 of 8 January 1976 would be repealed. It also noted that the draft Labour Code, formulated with the technical assistance of the ILO, would remove the prohibition on trade unions from participating in*

			*political activities and repeal Ordinance No. 30 of 26 November 1975. It drew the Government's attention, however, to the fact that the above draft did not contain provisions granting the right to strike to workers (except for sections 431-4 and 433-7 in a very restrictive and allusive manner) and that the procedure for settling industrial disputes did not appear to give workers the possibility of calling a strike. In its report the Government indicates that the competent authorities have still not examined the texts that are to repeal these Ordinances and that the new labour legislation will contain provisions making it possible for workers to call strikes. The Committee notes this information with interest and points out that the Convention applies to all workers, without distinction whatsoever, with the exception of the armed forces and the police (Article 9 of the Convention), and that t**he right of workers to call a strike is one of the essential means available to them to defend their interests (Article 10) and to organise their activities (Article 3) and can only be restricted, following the failure of conciliation procedures, in services whose interruption would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis** (in this connection, see paragraphs 214 and 226 of the 1983 General Survey on Freedom of Association and Collective Bargaining). **The Committee once again expresses the firm hope that the legislation to give full effect to the Convention will be adopted in the near future and it requests the Government to indicate any progress achieved in this respect in its next report.***
	2000, 2002, 2003, 2004, 2005, 2007, 2008, 2009, 2011, 2012, 2013, 2014 (Observations)	Public service and minimum service	***2000**: **The Committee had requested the Government to provide information on the application in practice of Decree No. 96/PR/MFPT/94 of 29 April 1994 issuing regulations concerning the exercise of the right to strike in the public service.** In its last report, the Government states that the above Decree, which gave rise to strong opposition by trade union confederations, has never been applied in practice. Once again, the Government states that the texts which are due to be issued under the Labour Code should explicitly repeal this Decree. The Committee notes the Government's explanations and hopes that the Government will take the necessary measures in the near future with a view to adopting the texts to be issued under the Labour Code of 1996, repealing Ordinance No. 27/INT/SUR of 1962, repealing or amending Decree No. 96/PR/MFPT/94 of 1994; and amending articles 307 and 294 of the Labour Code, in order to bring its legislation into full conformity with the provisions of the Convention. **It requests the Government to indicate the measures taken in practice in this respect in its next report**.*

			2004: *The Committee requested the Government to provide information on the application in practice of Decree No. 96/PR/MFPT/94 of 29 April 1994 issuing regulations respecting the exercise of the right to strike in the public service. The Committee recalls that this Decree provides for a conciliation and arbitration procedure prior to the calling of a strike and for a compulsory minimum service in certain public services the interruption of which would result in extremely serious disruption of the life of the community. In its report in 2000, the Government indicated that the above Decree had given rise to strong opposition by trade union confederations and that it had therefore never been applied in practice. The Government stated that the texts that are due to be issued under the Labour Code should explicitly repeal this Decree. The Committee wishes to recall that the right to strike may be restricted, or even prohibited, only in the case of public servants exercising authority in the name of the State or in essential services in the strict sense of the term, that is services the interruption of which would endanger the life, personal safety or the health of the whole or part of the population. Furthermore, in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum service in other services which are of public utility.* ***The Committee requests the Government to provide copies of the texts of the Act of 31 December 2001 issuing the general conditions of service of the public service and its implementing Decree of 23 June 2003, and of any other text repealing or amending Decree No. 96/PR/MFPT/94, and to indicate the manner in which the right to strike is exercised in practice in the public service****.*
	2008, 2009, 2011, 2012, 2013, 2014 (Observations)	Duration of strike	***2008****: Section 11(3) of the Act imposes the obligation to declare the "possible" duration of a strike. However, the Committee notes that, under section 13(1), non-compliance with this condition would result in an illegal strike. The Committee recalls that* ***trade unions should be able to declare strikes of unlimited duration and considers that the legislation should be amended to this effect. The Committee requests the Government to indicate the measures taken to this end.***
	2008, 2009, 2011, 2012, 2013, 2014 (Observations)	Requisitioning	***2008****: Section 22(1) provides that any refusal by officials or employees to comply with requisition orders (sections 20 and 21) makes them liable to the penalties provided for by sections 100 and 101 of Act No. 017/PR/2001 issuing the general public service regulations. In this regard, the Committee notes that these legislative provisions describe the degrees of disciplinary penalties imposed by order of gravity, but without indicating*

			those which correspond to the different degrees of fault. ***The Committee requests the Government to clarify the scope of penalties for contraventions of legal provisions and also requests it to indicate any other penalties which can be imposed for violations of Act No. 008/PR/2007 regulating the exercise of the right to strike in the public service.***
11. Comoros	1990, 1991, 2017, 2019, 2020, 2021, 2022, 2023 (Direct requests) No observations issued	Requisitioning in public and private services	***1990:*** *With regard to the procedure for requisitioning in the event of strikes in the public services, the Committee notes from the information supplied by the Government that this measure applies to services the interruption of which would seriously disrupt the day-to-day life of the population, that under section 7(9) of Act No. 80-22 this procedure may be applied only to a limited number of persons and that, although there have been strikes in the public service, in particular by primary and secondary school teachers, there has been no recourse to this provision.* ***Recalling that the requisitioning of workers on strike should be confined to services whose interruption would endanger the life, personal safety or health of the population, the Committee requests the Government to provide information on all cases in which this provision might be applied in the future***. ***2017****: The Committee notes that section 249 of the Labour Code authorizes the competent administrative authority to proceed, at any time, with the requisitioning of workers in private enterprises and in public services and establishments who are engaged in positions that are indispensable for the safety of persons and property, the maintenance of public order, the continuity of the public service or the satisfaction of the essential needs of the community. Section 9bis of the general regulations limits the requisitioning of public servants who are engaged in indispensable functions to the persons required to provide the minimum indispensable service, and specifies that this requisitioning must not in any case prejudice the right to strike. The Committee recalls that it is desirable to limit powers of requisitioning to cases in which the right to strike may be limited, or even prohibited, namely: (i) in the public service for public servants exercising authority in the name of the State; (ii) in essential services in the strict sense of the term; and (iii) in the case of an acute national or local crisis, and considers that essential services, for the purposes of restricting or prohibiting the right to strike, are only those the interruption of which would endanger the life, personal safety or health of the whole of part of the population (see General Survey, op. cit., paragraphs 151 and 131).* ***The Committee requests the Government to provide the list of jobs considered indispensable for the***

			safety of persons and property, the maintenance of public order, the continuity of the public service or the satisfaction of the essential needs of the community. The Committee also requests the Government to take the necessary measures to amend section 249 to ensure that requisitioning, as an exceptional measure, is limited to the above situations.
	1990, 1991 (Direct requests)	Imprisonment	***1990****: In its previous request, the Committee asked the Government to provide information on the scope of section 391 of the Penal Code which provides for fines and/or imprisonment to be imposed on anyone taking any kind of collective action with a view to disrupting the functioning of a public or private teaching establishment, especially through the irregular occupation of the premises of these establishments, but excepting therefrom the normal exercise of the right to strike.* *The Government indicates that this provision establishes the sanctions to be applied in the event of violation of section 7(12) of Act No. 80-22 which forbids public servants from occupying places of work and their immediate vicinity.* *While noting this statement, the Committee wishes to draw the Government's attention to the following point: section 7(5) provides that strikes are prohibited and liable to disciplinary sanctions unless one month has elapsed since the dispatch of the notice of the strike to the competent authorities by the trade union organisation or organisations. The Committee notes that, in the absence of trade union organisations, public servants are unable to have legal recourse to strike; furthermore, section 391 of the Penal Code could be applied to public servants in the public education sector, who would not have the possibility of resorting to the exception clause as their action would not constitute "the normal exercise of the right to strike" for the reasons mentioned above.* ***The Committee considers that, in view of the present situation of the trade union movement, these provisions are liable to undermine the right of public servants (other than those acting in their capacity as agents of the public authority) to resort to strike action as a means of protecting their interests. It requests the Government to indicate the measures it intends to take to guarantee that these workers are entitled to resort to strikes without being liable to the sanctions provided for under section 7 of Act No. 80-22, which can be compounded, in respect of teachers, under section 391 of the Penal Code****.*

	2014, 2015, 2016, (Direct requests)	Dismissal	***2014**: While noting that, in its 2013 observation, the CTC referred in particular to the **dismissal of trade union leaders in the education sector in retaliation for having engaged in strike action**, **the Committee requests the Government to provide its comments on these events and to specify the content of the legislative and regulatory provisions applicable to strikes.***
	2017, 2019, 2020, 2021, 2022, 2023 (Direct requests)	General strikes	***2017:** In its previous comments, the Committee requested the Government to specify the content of the legislative and regulatory provisions applicable to strikes. The Committee notes the Government's indication in its report that the Labour Code is adapted to the spirit of the Convention and that it recognizes trade union rights, particularly in section 247 which recognizes the right of workers to strike, in defence of their occupational interests. The Committee recalls that it considers that strikes relating to the Government's economic and social policies are legitimate, and that trade union organizations and employers' organizations responsible for defending socio-economic and occupational interests should be able to use, respectively, strike action or protest action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members (see the 2012 General Survey on the fundamental Conventions, paragraph 124). **The Committee requests the Government to take the necessary measures to ensure the recognition of the right to strike not only in defence of workers' occupational interests but also their social and economic interests.***
	2017, 2019, 2020, 2021, 2022, 2023 (Direct requests)	List of public services	***2017:** With regard to public servants, the Committee notes that section 9 of the general regulations of public servants authorizes the exercise of the right to strike, provided that they are not governed by regulations that prohibit them from striking. **The Committee requests the Government to provide a list of categories of public servants who are subject to regulation that prohibit them from striking, in accordance with section 9(3) of the general regulations of public servants.***
	2017, 2019, 2020, 2021, 2022, 2023 (Direct requests)	Duration of strikes	***2017:** The Committee also notes that section 247(2) of the Labour Code provides that a **strike can only be called eight days after notice is given, stating the grounds for and duration of the envisaged strike.** In accordance with section 9(3) of the general regulations, public servants are required to provide advance notice of 15 days stating the grounds for and duration of the envisaged strike. The Committee considers that workers and their organizations should be able to call a strike for an indefinite period if they so wish (see General Survey, op. cit., paragraph 146).* **T*he Committee therefore requests the Government to take the necessary measures to amend section 247(2) of the Labour***

			Code and section 9(3) of the general regulations of service of public servants as indicated.
	2017, 2019, 2020, 2021, 2022, 2023 (Direct requests)	Strike pickets	***2017:*** *The Committee notes that, under section 248(3) of the Labour Code, the right to strike does not authorize workers to perform their duties in conditions other than those specified in their contract or those prevailing in the occupation, or to arbitrarily use the premises of the enterprise. Furthermore, section 9bis(5) of the general regulations prohibits the permanent occupation of the workplace or the immediate surroundings during the exercise of the right to strike.* ***Recalling that restrictions on strike pickets and workplace occupations can only be accepted where the action ceases to be peaceful (see General Survey, op. cit., paragraph 149), the Committee requests the Government to clarify the meaning of section 248(3) of the Labour Code, and to take the necessary measures to ensure that section 248(3) of the Labour Code and section 9bis(5) of the general regulations do not impede the free exercise of the right to strike.***
	2017, 2019, 2020, 2021, 2022, 2023 (Direct requests)	Compulsory arbitration	***2017:*** *The Committee notes that section 240 of the Labour Code provides that, in the event of the failure of conciliation and in the absence of a contractual arbitration procedure, the parties are required to follow the arbitration procedure of the Arbitration Board and provided for in section 243 et seq. The Committee recalls that the failure of conciliation is not per se an element which justifies the imposition of compulsory arbitration, and that unless the parties agree recourse to arbitration to bring an end to a collective labour dispute and a strike is only acceptable under certain circumstances, namely when the strike in question may be restricted, or even prohibited, that is: (a) in the case of disputes concerning public servants exercising authority in the name of the State; (b) in disputes in essential services in the strict sense of the term; or (c) in situations of acute national or local crisis, but only for a limited period of time and to the extent necessary to meet the requirements of the situation (see General Survey, op. cit., paragraph 153).* ***Considering that any failure of conciliation is subject to mandatory referral to an arbitration procedure following which an arbitration award is notified to the parties, the Committee requests the Government to take the necessary measures to amend the legislation to allow the exercise of the right to strike in the context of the settlement of a collective dispute.***
12. Congo	1996, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,	Minimum service	***1996:*** *as regards the* ***need to amend the legislation on the minimum service "indispensable to safeguard the general interest" to be maintained in the public service, which is organized by the employer, wherein refusal to participate is deemed to constitute serious misconduct (section 248-16)****, in order to limit the minimum service to*

	2009, 2010, 2011, 2013, 2014, 2021 (Observations) Report due since 2016		*the operations which are strictly necessary to meet the basic needs of the population and within the framework of a negotiated minimum service, that the Government undertakes to review this provision in consultation with the social partners with a view to modifying it or adopting an implementing text.* ***The Committee asks the Government to keep it informed of any developments in this matter and to provide a copy of the text modifying this provision of the Labour Code.***
	1996, 1998 (Observations)	Public service	***1996****: Lastly, with regard to Cases Nos. 1850 and 1870,* ***the Committee asks the Government to report on the progress of the draft amendment to the Act on the right to strike in the public service.*** *It trusts that any amendment will be consistent with the principles of freedom of association and that restrictions, or prohibitions, of the exercise of the right to strike will be confined to public servants exercising authority in the name of the State or to essential services in the strict sense of the term, namely services the interruption of which would endanger the life, health or safety of the whole or part of the population, which is not the case of the post and telecommunication services as such.*
13. Cote d'Ivoire	1989, 1991, 1993, 1995, 1996 (Observations)	Compulsory arbitration	**1989**: ***In its previous observation****, the Committee noted with interest that the new proposed wording of* ***section 183 of the Labour Code would restrict the current powers of the President of the Republic to decide to submit an industrial relations dispute to compulsory arbitration, when a strike or a lock-out is likely to prejudice public order in the following circumstances****:* *1. in cases where the strike affects an essential service, the interruption of which would endanger the life, personal safety or health of the whole or part of the population;* *2. in cases where the strike is called by public officials acting in their capacity as agents of the public authorities;* *3. in the event of an acute national crisis.* *The Committee notes, from the Government's report, that the draft amendment to the above text has been transmitted to the social partners for their examination.* ***The Committee requests the Government to indicate in its next report the measures that have been taken to bring the legislation into conformity with the Convention***.

14. Democratic Republic of Congo	2009, 2010, 2011, 2013, 2016, 2017, 2018 (Direct requests) Nothing in observations	Occupation	***2009:*** *The Committee had noted that Order No. 12/CVAB.MIN/TPS/113/2005 of 26 October 2005 establishes the rights and obligations of parties during the suspension of the labour contract and in the event of a strike, of which a copy has been provided by the Government. The Committee had noted that, under section 11 of this Order,* ***workers on strike are forbidden to enter and remain in work premises affected by the strike****. In this respect, the Committee wishes to draw the Government's attention to the fact that restrictions on the occupation of premises by strikers should be limited to cases in which the strike ceases to be peaceful and when the freedom to work of non-strikers, as well as the right of the management of the enterprise to enter the premises, are infringed.* ***The Committee requests the Government to take the necessary measures to amend section 11 of Order No. 12/CVAB.MIN/TPS/113/2005 of 26 October 2005, in accordance with the abovementioned principle.***
	2009, 2010, 2011, 2013, 2016, 2017, 2018 (Direct requests)	Penalties – penal sanctions	***2009:*** *In its previous comments, the Committee had requested the Government to amend section 326 of the Labour Code, which provides that* ***a fine and/or a sentence of penal servitude of a maximum of six months might be imposed on an individual who is in breach of the conditions established for the exercise of the right to strike****. The Committee had recalled that: (1) penal sanctions should be possible only where the strike prohibitions are in conformity with the principles of freedom of association; (2) all penalties in respect of actions linked to illegitimate strikes should be proportionate to the offence or fault committed; and (3) the authorities should not have recourse to measures of imprisonment of workers for the mere fact that they have organized or participated in a peaceful strike. The Committee takes due note of the Government's proposed amendment to section 326 of the Labour Code, by adding the principles that it listed above. Nonetheless, the Committee recalls that the application of disproportional penal sanctions does not favour the development of harmonious and stable industrial relations and that, if measures of imprisonment are to be imposed at all, they should be justified by the seriousness of the offences committed (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 177).* ***The Committee suggests including an additional provision stipulating that penalties against strikers must be proportionate to the offence committed and that no prison sentence shall be imposed unless criminal or violent acts have been committed. The Government is requested to indicate any developments in the amendment of section 326 of the Labour Code on the lines suggested above.***

	2009, 2010, 2011, 2013, 2016, 2017, 2018 (Direct requests)	Voluntary conciliation and mediation	***2009**: Furthermore, the Committee recalled its previous comments concerning recourse to the labour tribunal in the event of a strike. The Committee had pointed out that: (1) section 304 of the Labour Code and section 27 of Act No. 016/2002 concerning the establishment, organization and functioning of labour tribunals provides that recourse is possible to the labour tribunal once the conciliation and mediation procedures have been exhausted; (2) under section 28(1) of Act No. 016/2002, once the strike notice period has expired, one of the parties might apply to the tribunal to rule on the collective labour dispute between them; (3) section 28(3) of the same Act provides that such referral to the tribunal should have the effect of suspending the strike or lockout. The Committee had noted the Government's statement that labour tribunals have not yet been set up and that referral to the tribunal might only take place once the conciliation and mediation procedures instigated by one of the parties or the labour inspection services have been exhausted. The Committee recalls that arbitration to resolve a labour dispute must be voluntary on the part of both parties and not prevent recourse to strike action, with the exception of specific circumstances, such as the provision of essential services in the strict sense of the term. The Committee points out that arbitration which can be imposed at the request of one of the parties and the effect of which is binding is equivalent to compulsory arbitration, and that this is not in conformity with the principle of freedom of association (see General Survey, op. cit., paragraphs 256 and 257). **The Committee requests the Government to take the necessary measures to amend section 28 of Act No. 016/2002 to ensure that referral to the labour tribunal, once the conciliation and mediation procedures have been exhausted, can only take place after a voluntary decision by both parties to the dispute.**
15. Djibouti	1996, 1997, 1998, 1999, 2000, 2002, 2003, 2005, 2007, 2008, 2009, 2010, 2011, 2021, 2013, 2014, 2016, 2017, 2019, 2020, 2021, 2022, 2023 (Observations)	Public servants – requisitioning	***1996:** The Committee recalls that its previous comments also concerned the need to repeal or amend the following provisions:* *- section 23 of Decree No. 83099/PR/FP of 10 September 1983 establishing the conditions governing the right to organize and the **right to strike of public servants**, which confers on the President of the Republic the power to requisition public servants who are indispensable to the life of the nation and to the operation of essential services, in order to **restrict this power of requisitioning to cases in which, in the Committee's opinion, the restrictions or prohibitions of the exercise of the right to strike are admissible**, namely those the interruption of which would endanger the life, personal safety or health of the whole or part of the population or in the event of an acute national crisis. **The Committee**, like the Committee on Freedom of Association, **requests the Government to take***

			measures in the near future to bring its legislation and practice into conformity with the requirements of the Convention and to inform it of progress made in this matter.
16. Equatorial Guinea	2004, 2005 (Direct requests) 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023 (Observations)	Essential services and public service	***2004:*** *The Committee notes with interest that section 37 of Act No. 12/1992 reproduces the definition of essential services formulated by the Committee and provides for the maintenance of minimum services in such services. In this respect, the Committee requests the Government to provide information on the manner in which services considered to be essential are determined in practice and how the minimum services to be guaranteed are determined. Furthermore, noting that section 58 of the Fundamental Act prohibits strikes in services of public utility,* ***the Committee requests the Government to provide clarifications on the manner in which this provision of the Fundamental Act is reconciled in practice with section 37 of Act No. 12/1992, which provides for the establishment of minimum services in essential services. The Committee also requests the Government to provide information on the exercise of the right to strike in the public service and recalls that the prohibition of strikes in this sector should be limited to public servants exercising authority in the name of the State.***
17. Egypt	1994, 1995, 2000, 2001, 2007, 2009, 2012, 2016, 2017, 2018, 2019, 2020 (Observations)	Definition of essential services/public service and restriction on the right to strike	***1994:*** *Noting however that section 182 of the draft text provides that a dispute which arises in an establishment which provides "vital services" (which shall be determined by the Prime Minister under section 199(2) of the draft text) in which strikes are forbidden, can still be submitted to arbitration at the request of one party, the Committee recalls that* ***any restrictions, or prohibition on the right to strike should be confined to public servants exercising authority in the name of the State or to essential services in the strict sense of the term****, that is services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (1994 General Survey on Freedom of Association and Collective Bargaining, paras. 158 and 159).*
	2016, 2017, 2018, 2019, 2020 (Observations)	Duration of strike	***2016:*** *The Committee recalls in this regard its* ***previous comments in relation to the Labour Code****:* - *legal obligation (accompanied by a penalty) for workers' organizations to* ***specify in advance the duration of a strike*** *(sections 69(9) and 192 of the Labour Code);* *The Committee firmly expects the Government to introduce amendments to the Labour Code taking full account of the above comments. It requests the Government to provide information in its next report on the progress made in this regard and to supply any related amendments proposed or adopted.*

	2000, 2001, 2002, 2003, 2005, 2007, 2009, 2010, 2011, 2012, 2016 (Observations) 2013 (Direct requests)	Prior approval	***2000:*** *Finally, concerning section 14(i) of Act No. 12 of 1995, the Committee had noted that the legislation states that the General Union is to "approve" the organization of strike action by workers, and requiring such approval, even if regulatory in nature, is not in conformity with the Convention, as it denies first-level organizations the right to strike without seeking the authorization of the General Union.* ***The Committee once again requests the Government to amend the legislation in order to bring it into closer conformity with the principles of freedom of association so that first-level organizations have the right to strike without having to seek the authorization of the General Union****.*
	2003, 2007, 2009, 2010, 2011, 2012, 2016, 2017, 2018 (Observations)	Sanctions	***2003:*** *The Committee notes that, under section 69(9) of the new Labour Code,* ***workers may be dismissed on the grounds of serious error*** *if they have participated in a strike infringing section 194. Recalling that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association, the Committee trusts that workers who have participated in legitimate strike action, in light of the considerations made above in respect of section 194, will not be sanctioned.* ***It requests the Government to keep it informed of any concrete case of application of section 69(9) for infringement of section 194****.*
18. Eritrea	2002, 2003, 2004, 2005, 2007, 2009, 2010, 2011, 2012, 2013, 2014, 2016, 2017, 2018, 2019, 2020, 2021, 2023 (Direct requests) No observations on right to strike	Strike vote	***2022:*** *The Committee notes section 116 of the Labour Proclamation, which provides that a majority of employees must vote in favour of a strike for it to be legal. The Committee recalls that in many countries legislation* ***subordinates the exercise of the right to strike to prior approval by a certain percentage of workers****. Although this requirement does not, in principle, raise problems of compatibility with the Convention,* ***the majority required*** *should not be such that the exercise of the right to strike becomes very difficult, or even impossible in practice. If a member State deems it appropriate to establish in its legislation provisions which require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey on freedom of association and collective bargaining, 1994, paragraph 170). The Committee requests the Government to indicate the measures taken or envisaged to ensure that, where an association does not represent the majority of the employees (section 116(3)), account is taken only of the votes cast. The Committee also requests the Government to indicate whether sympathy strikes and protest actions in respect of government socio-economic policy affecting the workers can be exercised without sanctions.*

19. Eswatini	2001, 2002, 2004, 2006, 2007, 2008, 2009, 2010, 2011 (Observations)	Procedural rules and balloting requirements	***2001****: In its previous comments, the Committee had noted the lengthy procedure required before strike action could be taken legally, and had requested the Government to inform it of any measures taken or proposed to decrease the length of this compulsory dispute settlement procedure. The Committee recalls that provisions which require workers' organizations to observe certain procedural rules before launching a strike are admissible, provided they do not make the exercise of the right to strike impossible or very difficult in practice (see General Survey on freedom of association and collective bargaining, 1994, paragraph 179).* ***The Committee requests the Government to amend its legislation in order to decrease the length of the compulsory dispute settlement procedure provided for in sections 85 and 86, read with sections 70 to 82, of the IRA.***
	2002, 2004, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 (Observations)	Penalties	***2002****: The Committee also drew the attention of the Government to section 40(13) of the Act which ensures that federations, unions and individuals involved in protest action may only be subject to civil liability for criminal, malicious or negligent acts. The Committee requests once again that the Government keep it informed in future reports of any practical application of section 40 and, in particular, in regard to any charges brought by virtue of section 40(13).* *Moreover, the Committee takes note with concern of the provisions in the Internal Security Bill, 2002, which confer broad powers on the public authorities to restrict public gatherings and boycotts under penalty of imprisonment. The Committee considers that such provisions could impair the guarantees set out in Article 3 of the Convention. It therefore requests the Government to indicate in its next report whether this Bill has been adopted and, if so, to transmit a copy of the adopted text.*
	2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 (Observations)	Minimum service	***2006:*** *For several years the Committee has been referring to provisions of the law that are inconsistent with those of the Convention, or has requested information on the effect given to some provisions in practice. In its previous comments, it asked the Government:* - *to recognize the right to strike in sanitary services (at present banned by IRA section 93(9)), establish only a minimum service with the participation of workers and employers in the definition of such a service;*
20. Ethiopia	2005, 2008, 2009, 2010, 2011, 2012, 2013, 2016, 2019 (Observations)	Strike vote	***2005:*** *The Committee notes that section 158(3) concerning a strike ballot provides that the* ***strike vote*** *should be taken by* ***the majority of the workers concerned in a meeting in which at least two-thirds of the members*** *of the trade union are present. The Committee recalls that, if the legislation requires a vote by workers before a strike can be held, it*

			should be ensured that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey on freedom of association and collective bargaining, 1994 paragraph 170). The Committee requests that the Government amend section 158(3) so as to lower the quorum required for a strike ballot and to keep it informed of the measures taken or envisaged in this respect.
	1989, 1991, 1992, 1998, 1999, 2000, 2001, 2002, 2003, 2005, 2008, 2009, 2010, 2011, 2012, 2013, 2016, 2019 (Observations)	Restrictions in essential services	***1989:*** *In its previous comments, the Committee noted that sections 99 (3) and 106 of the Labour Proclamation of 1975 could result in practice in a prohibition of the right to strike. According to the information supplied, the Government considers that the right to strike is not restricted by the Constitution and states that specific legislation is envisaged in this connection once the new Labour Code has been adopted. While noting this statement, the Committee points out that the right to strike is one of the means available to workers' organisations to defend their interests (Article 10 of the Convention) and to formulate their programmes (Article 3 of the Convention) and* ***cannot be restricted, following mediation and conciliation procedures, except in the case of public servants acting in their capacity as agents of the public authority, or in essential services in the strict sense of the term****, namely services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis (see, in this connection, paragraphs 214 and 226 of the 1983 General Survey on Freedom of Association and Collective Bargaining).* *The Committee requests the Government to indicate the measures that have been taken in order to modify the legislation.*
	1989, 1991, 1992, 1998, 1999, 2000, 2001, 2002, 2003, 2005, 2008, 2009, 2010, 2011, 2012, 2013, 2016, 2019 (Observations)	Compulsory arbitration	***2005:*** *The Committee* ***previously raised a concern*** *over the* ***compulsory arbitration imposed at the request of one party.*** *The Committee notes that section 143(2) allows the aggrieved party to the labour dispute to take the case to the Labour Relations Board for arbitration or to the appropriate court. In this case, the strike is considered unlawful (section 160(1)). In the case of essential services, as listed in section 136(2), the dispute is referred to an ad hoc board for arbitration (section 144(2)). The Committee recalls that, except in situations concerning essential services in the strict sense of the term, acute national crisis and public servants exercising authority in the name of the State, recourse to arbitration should only be allowed upon a request of both parties.* ***The Committee therefore requests the Government to amend its legislation so as to bring it into conformity with the Convention and to keep it informed of the measures taken or envisaged in this respect.***

21. Gabon	1990, 1991, 1992, 1993, 1995 (Observations)	Compulsory arbitration	***1990:*** *The Committee recalls that its previous comments concerned the following points:* ***- the imposition of compulsory arbitration****, making it legally impossible to call a strike (sections 239, 240, 245 and 249 of the Labour Code) even though in practice strikes may be called without legal action being taken. As regards the question of recourse to compulsory arbitration, the Committee recalls its previous comment to the effect that the right to strike is one of the means available to trade unions to further and defend the interests of their members (Article 10 of the Convention) and to organise their activities (Article 3). Restrictions or prohibitions on calling strikes should only be admissible in exceptional cases for workers in essential services in the strict sense of the term, namely services the interruption of which would endanger the life, personal safety or health of the whole or part of the population or in the event of an acute national crisis (in this connection, see paragraphs 199 to 226 of the General Survey on Freedom of Association and Collective Bargaining of 1983, concerning the right to strike). In its previous observation, the Committee noted that a general review of the Labour Code was being undertaken and that the Government requested the Committee to grant the necessary time to carry this out, particularly in view of the delicate nature of some of the points to be revised.* ***The Committee again expresses the hope that, as part of this review, it will be possible to amend the legislation to take account of the Committee's comments, and requests the Government in its next report to provide information on the measures taken in this respect.***
22. Gambia	2005, 2006, 2007, 2008, 2009, 2011, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 (Direct requests)	Essential services	***2005****: Finally, noting with interest that essential services are defined in section 3 of the Act as services which, if interrupted, would be likely to endanger the life or health of the community or a substantial part thereof, the Committee requests the Government to* ***provide any relevant texts designating services as essential and to indicate how this determination is made.***

23. Ghana	1995, 1996, 1998, 1999 (Direct requests)	Penal Sanctions	***1995**: The Committee notes that under the terms of section 22 of the Industrial Relations Act, 1965, a person declaring, instigating or inciting others to take part in a strike considered to be illegal under this Act, is liable to a fine or one year's imprisonment or both.* *However, since the application of disproportionate penal sanctions does not favour the development of harmonious and stable industrial relations,* ***the Committee considers that if measures of imprisonment are to be imposed at all, they should be justified by the seriousness of the offences committed. In any case, a right of appeal should exist in this respect*** *(see 1994 General Survey on freedom of association and collective bargaining, paragraph 177).* ***The Committee requests the Government to keep it informed of any cases where this provision has been applied in practice as well as of any judicial decisions in this respect.***
	2005, 2006, 2007, 2009, 2011, 2012, 2014, 2015, 2017 (Direct requests)	Conciliation procedures	***2005**: The Committee notes that sections 154-160 of the Labour Act contain no specific time limit within which mediation should be concluded. This could serve as an impediment to the staging of lawful strikes given that the exhaustion of mediation proceedings is a prerequisite in this respect (section 159).* ***The Committee therefore requests that the Government complement the Labour Act by setting specific and not excessively long time limits within which mediation efforts should be concluded so as not to unduly impede the possibility for workers to have recourse to lawful strikes for the defence of their occupational rights and interests.***
	2005, 2006, 2007, 2009, 2011, 2012, 2014, 2015, 2017 (Direct requests)	Compulsory arbitration	***2005**: The Committee further notes that section 160(2) of the Labour Act provides that if a dispute remains unresolved within seven days from the commencement of a strike, the dispute shall be settled by compulsory arbitration proceedings in which the tripartite National Labour Commission shall serve as an arbitration body (section 164). The award shall be final and binding on the parties and shall prevail over any collective agreement in force and the terms of the collective agreement shall be deemed to have been modified as far as may be necessary, to conform to the award (section 167). The Committee is of the view that such a system would deprive strikes of any effect and would seriously limit the means available to trade unions to further and defend the interests of their members, as well as their right to organize their activities and to formulate their programmes, contrary to Article 3 of the Convention (see General Survey, op. cit., paragraph 153).* ***The Committee asks the Government to repeal section 160(2) so as to limit the possibility for***

			the authorities to refer collective disputes to compulsory arbitration only to cases involving essential services in the strict sense of the term and public servants exercising authority in the name of the State.
	2005, 2006, 2007, 2009, 2011, 2012, 2014, 2015, 2017 (Direct requests)	Essential services	***2005****: The Committee notes that section 175 of the Labour Act defines essential services, in which strikes are prohibited in accordance with section 163, as "areas in an establishment where an action could result in a particular or total loss of life or pose a danger to public health and safety and such other services as the Minister may by legislative instrument determine". The Committee recalls that essential services are only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see General Survey, op. cit., paragraph. 159). T**he Committee requests that the Government keep it informed of any instrument issued by the Minister under section 175 of the Labour Act with a view to qualifying a particular service as essential and any list of the specific services which are considered to be essential.*
24. Guinea	1989, 1997, 1998, 1999, 2000, 2002, 2003, 2004, 2005, 2007, 2008, 2009, 2010, 2011, 2012, 2017, 2021, 2022 (Direct requests) No more comments issued after 2022	Essential services and compulsory arbitration	***1989****: In its previous observation, the Committee noted that, under the terms of the procedure for the settlement of industrial disputes set out in sections 342, 350 and 351 of the Labour Code, a dispute may be referred to compulsory arbitration: (a) at the request of one party to the dispute; (b) at the request of the Minister if he considers that a strike is liable to endanger the public order or the national interest; and that, in the event of opposition to an arbitration decision and in the event of disputes that are liable to jeopardise the normal functioning of the national economy, the Minister may request the Council of Ministers to give the decision executory force. The Committee notes with interest that section 342, as amended, limits the powers of the Minister to submit a dispute to compulsory arbitration to cases of strikes which occur in an essential service or during a period of national crisis when it would endanger public order or the national interest.* ***The Committee notes however that recourse to the arbitration procedure can be initiated at any time at the request of only one party to a labour dispute, which might limit the exercise of the right to strike, in contravention with Article 3 of the Convention. The Committee asks the Government to supply information on the measures contemplated to give effect to the Convention in that respect and to provide a list of the essential services referred to by section 351, as amended, if such a list has been adopted.***
25. Guinea Bissau	NO COMMENTS (Convention not yet in force)		

26. Guyana	1992, 1993, 1998, 2000, 2002, 2003, 2005, 2006, 2007, 2009, 2010, 2011, 2012 (Observations) 2021 (Direct request)	Imprisonment	***1992:*** *The Committee takes note of the Government's report and* ***recalls that its comments have addressed the following issues****:* *- the need to amend the Public Utility Undertakings and Public Health Services Arbitration Act (Cap. 54:01) which confers on the Minister broad powers to refer a dispute in the services listed in the schedule (which may be revised at the discretion of the Minister) to a tribunal for arbitration without having previously obtained the agreement of the two parties, and* ***renders workers who take part in an illegal strike liable to a fine or two months' imprisonment*** *(section 19).*
	1992, 1993, 1995, 1996, 1998, 2000, 2002, 2003, 2005, 2006, 2007, 2009, 2010, 2011, 2012 (Observations) 2021 (Direct request)	Essential services and arbitration	***1992****: In a previous comment, the Committee urged the Government to ensure that measures were taken to amend Act Cap. 54:01 to limit recourse to* ***compulsory arbitration in respect of strikes relating to essential services in the strict sense of the term, namely services whose interruption is liable to endanger the life, personal safety or health of the whole or part of the population.*** *The Committee notes from the Government's report that the Minister has not invoked the provisions of the Act that permit him to refer disputes to arbitration without the consent of the parties for many years, that all the disputes referred to arbitration in recent years were at the instance of the unions and that the penal sanction contained in the Act has never been enforced. The Committee also notes the Government's statement that it is currently examining the legislation in view of the comments and observations made by the Committee of Experts with a view to adopting the necessary amendments.* ***The Committee again expresses the hope that, as part of the present review of the legislation, Act Cap. 54:01 will be amended to take account of its comments. It asks the Government to provide detailed information on developments in this respect.***
27. Kiribati	2008, 2010, 2011, 2012 (Observations) 2017 (Direct requests)	Compulsory arbitration	***2008****: In a previous direct request, the Committee had requested the Government to amend sections 8(1)(d), 12, 27 and 28 of the Industrial Relations Code so as to limit the possibility of prohibiting strikes and imposing compulsory arbitration only to those cases which would be in conformity with the Convention. The Committee notes from the Government's report that section 12 will be amended upon adoption of the draft Industrial Relations Amendment Bill through addition of a new section 12(A)(1) according to which the registrar may only refer a trade dispute to an arbitration tribunal if: (a) all the parties to the dispute request such referral; (b) the dispute is in the public services involving public servants exercising authority in the name of the State; (c)*

			industrial action has been protracted or is tending to endanger or has endangered the personal health, safety or welfare of the community or part of it; (d) conciliation has failed and the parties are unlikely to resolve the dispute. *In this regard, the Committee once again recalls that compulsory arbitration is acceptable under the Convention only at the request of both parties to the dispute, in essential services in the strict sense of the term, and for public servants exercising authority in the name of the State. The existence of protracted disputes (subsection (c)) and the failure of conciliation (subsection (d)) are not per se elements which justify the introduction of compulsory arbitration. Furthermore, the word "welfare" introduced in relation to essential services (subsection (c)) may include issues which go beyond the health and safety of the population in a strict sense and, in that case, would be contrary to the Convention.* ***The Committee requests the Government to amend the Draft Industrial Relations Amendment Bill so as to remove subsection (d) from draft section 12(A)(1)(d), as well as the reference to protracted industrial action and the "welfare of the community" from draft section 12(A)(1)(c) with a view to ensuring that compulsory arbitration is possible only where this is in conformity with the Convention.*** *Furthermore, concerning the conciliation and mediation machinery, the Committee considers that it should have the sole purpose of facilitating bargaining: it should not be so complex or slow that a lawful strike becomes impossible in practice or loses its effectiveness (see General Survey on freedom of association and collective bargaining, 1994, paragraph 171). The Committee observes in this regard that there are no specific time limits in the Industrial Relations Code for the exhaustion of conciliation proceedings and that sections 8(1)(a), (b), (c) and 9(1)(a) give the Registrar and the Minister the power to prolong the negotiation, conciliation and settlement procedure at their discretion, without any fixed time limits, while according to section 27(1), a strike which takes place before the exhaustion of procedures prescribed for the settlement of trade disputes, shall be unlawful.* ***The Committee requests the Government to indicate the measures taken or contemplated to ensure that specific time limits are introduced in the Industrial Relations Code so that the mediation and conciliation procedure is not so complex or slow that a lawful strike becomes impossible in practice.***
	2008, 2010, 2011, 2012 (Observations)	Sanctions – essential services	***2008:*** *In its previous comments, the Committee had requested the Government to lift the provision in section 37 of the Industrial Relations Code which has the effect of prohibiting*

	2017 (Direct requests) In 2022 the CEACR acknowledge the adoption of the required changes		*industrial action and imposing heavy penalties including imprisonment in cases where a strike might "expose valuable property to the risk of destruction". The Committee notes with interest that the draft Industrial Relations Amendment Bill will amend section 37 of the Industrial Relations Code so as to lift this provision.* ***The Committee requests the Government to keep it informed of progress made in the adoption of the Draft Industrial Relations Amendment Bill with a view to removing the provision of section 37 of the Industrial Relations Code which imposes heavy penalties including imprisonment for strikes in case they "expose valuable property to the risk of destruction".****The Committee also recalls that* ***in its previous comments****, it had requested the Government to amend section 37 of the Industrial Relations Code which i****mposes penalties of imprisonment and heavy fines for strikes in essential services.*** *The Committee notes from the Government's report that the draft Industrial Relations Amendment Bill will amend section 37 of the Industrial Relations Code so as to increase the relevant fines from $100 to $1,000 for strikes in essential services and from $500 to $2,000 for inciting others to participate in a strike in essential services; at the same time, the prison sentences of one year and 18 months, respectively, for strikes in essential services and incitement to participate, therein, have apparently not been amended. The Committee further recalls that it had previously requested the Government to amend section 30 of the Industrial Relations Code, which imposes sanctions of imprisonment and heavy fines against unlawful strikes in general. The Committee notes from the Government's report that the prison sentences have been lifted in the draft Industrial Relations Amendment Bill but that the applicable fines have been increased to $1,000 from $100 in case of participation in an unlawful strike and have remained at $2,000 in case of incitement to participate in an unlawful strike. In this respect, the Committee recalls that no penal sanction should be imposed against a worker for having carried out a peaceful strike and therefore, measures of imprisonment should not be imposed on any account. Such sanctions could be envisaged only where during a strike, violence against persons or property or other serious infringements of rights have been committed, and can be imposed pursuant to legislation punishing such acts. Nevertheless, even in the absence of violence, if the strike modalities had the effect of making the strike illegitimate, proportionate disciplinary sanctions may be imposed against strikers.* ***The Committee requests the Government to review the draft Industrial Relations Amendment Bill so as to amend sections 30 and 37 of the Industrial Relations Code in the manner indicated above.***

28. Lesotho	1989, 1991, 1993, 2005, 2006, 2008, 2010 (Observations)	Essential services	***1989:*** *In the past, the Committee has requested the Government to amend the provisions of the Essential Services Arbitration Act (No. 34) of 1975, as amended in 1982, which lay down that any dispute in the banking sector, considered to be an essential service, is subject to compulsory arbitration, thereby depriving workers in this sector of the right to have recourse to strikes.* *The Government again states in its report that it has taken note of the Committee's concern in this matter and stresses that the matter is under consideration.* *The Committee therefore recalls that, while workers engaged in essential services may be deprived of the right to strike subject to appropriate, impartial and rapid conciliation and arbitration procedures, such services should be limited to those whose interruption would endanger the life, personal safety or health of the whole or part of the population. In the opinion of the Committee, the banking sector does not fall within this definition.* ***The Committee expresses the firm hope that the Government will take the necessary steps to remove restrictions on the exercise of the right to strike of workers in the banking sector and requests the Government in its next report to indicate any progress made in this respect.***
	2005, 2006, 2008, 2010 2014, 2017, 2021 (Direct requests) No more observations after 2021	Public service	***2005****: The Committee notes that section 19 of the Public Service Act, 2005, prohibits public officers from engaging in strikes. The Committee recalls that a prohibition on the right to strike in the public service should be limited to public servants exercising authority in the name of the State.* ***The Committee asks the Government, therefore, to provide detailed information as to the precise categories of workers restricted in their right to strike under the Act and the manner in which all other state employees, such as teaching staff or employees in state institutions, are guaranteed the right to undertake industrial action, without being subject to disciplinary or other sanctions.***
	2005, 2006, 2008, 2010 2014, 2017, 2021 (Direct requests) No more observations after 2021	Compensatory guarantees	***2005:*** *The Committee further recalls that workers who may be deprived of the right to strike as a means of defending their socio-economic and occupational interests should be afforded compensatory guarantees, for example conciliation and mediation procedures leading, in the event of deadlock, to arbitration machinery seen to be reliable by the parties concerned (see General Survey on freedom of association and collective bargaining, 1994, paragraph 164). The Committee notes that section 17 of the Public Service Act only provides for non-binding conciliation.* ***Therefore, the Committee***

			requests that the Government provide further information as to the measures taken to establish compensatory guarantees, in particular arbitration machinery for those workers who are prohibited from exercising their right to strike under the Act.
29. Liberia	1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 (**implemented in 2010**) (Observations)	Prohibition of strikes	***1990:*** *The Committee* ***once again recalls*** *the need to* ***amend or repeal Decree No. 12 of 30 June 1980 which prohibits strikes [...]***
	1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2014, 2015 (**implemented in 2017**) (Observations)	Agricultural workers	***1990:*** *The Committee* ***once again recalls*** *the need to* ***amend or repeal section 4601-A of the Labour Practices Law which prohibits agricultural workers from joining industrial workers' organisations.***
	2017, 2018, 2019, 2020, 2021, 2022, 2023 (Observations)	Essential services	***2017****: The Committee notes that the National Tripartite Council (established by virtue of section 4.1 of the Act) has the function to identify and recommend to the Minister services that are to be considered essential (section 41.4(a) of the Act). The Committee notes with interest that essential services are defined in section 41.4 of the Act as services which, if interrupted, would endanger the life, personal safety or health of the whole or any part of the population. The section also provides that the President shall, upon considering the recommendations of the National Tripartite Council, decide whether or not to designate any part of a service as an essential service and publish a notice of designation of that essential service in the* Official Gazette. *The Committee notes that the final decision on the determination of a service as essential rests with the President, who is neither bound by nor obliged to follow the recommendations of the National Tripartite Council.* **T*he Committee requests the Government to indicate whether, in determining services which are to be considered essential, the President is bound by the definition of essential services set out in section 41.4 of the Act. The Committee also requests the Government***

			to provide information on how section 41.4 has operated in practice with respect to the designation of essential services.
30. Libya	2002, 2004, 2005, 2006, 2008, 2010 (Direct requests)	Conciliation and arbitration procedures	***2002:*** *The Committee observes that according to section 150 of the Labour Code the exhaustion of all conciliation and arbitration procedures is a condition for a lawful strike or a lockout and that section 176 imposes a penalty of imprisonment of one month or a fine against any person who contravenes this provision. The Committee notes that the conciliation and arbitration procedures as laid down in sections 138-146, apply to cases of "collective labour disputes" where the dispute involves 40 per cent of workers in the undertaking, establishment, factory or branch of activity. The Committee notes moreover, that these procedures may be launched at the initiative of one of the parties to the dispute and include, after an initial period of mediation, compulsory recourse to arbitration the outcome of which is binding on the parties who, according to section 146, are not entitled to raise the matter again for two years. The Committee observes in addition that section 151 allows a strike or a lockout only if one of the parties fails to give effect to a final settlement reached in accordance with the abovementioned procedures, and that section 177 imposes a fine against any person who goes on strike in violation of this provision. The Committee considers that provisions under which, at the request of one of the parties or at the discretion of the public authorities, disputes must be referred to a compulsory arbitration procedure leading to a final award which is binding on the parties concerned, result in practice in a prohibition of strikes. The Committee wishes to emphasize that such a system makes it possible to prohibit virtually all strikes or to end them quickly and that such a prohibition seriously limits the means available to trade unions to further and defend the interests of their members, as well as their right to organize their activities and to formulate their programmes, and is not compatible with Article 3 of the Convention (see General Survey, 1994, paragraph 153).* ***The Committee requests the Government to consider amending these provisions in accordance with the abovementioned considerations so as to ensure that strike action remains possible at all times after exhaustion of a reasonable period of consultation and mediation procedures and that arbitration awards should only be binding in cases where both parties agree.***
31. Madagascar	2010, 2014, 2016, 2017, 2021, 2022 (Observations)	Compulsory arbitration	***2010:*** *The Committee* ***previously noted*** *that, under sections 220 and 225 of the Labour Code, in the event of the failure of mediation, the collective dispute shall be submitted by the ministry responsible for labour and social legislation either to a contractual arbitration procedure, in accordance with the collective agreement between the parties, or*

			to the arbitration procedure of the competent labour court. The arbitration award is final and without appeal and brings an end to the dispute, including any strike that has been called in the meantime. In this regard, the Committee recalls that recourse to arbitration to end a collective dispute is acceptable only if it is at the request of both parties involved in the dispute and/or in the case of a strike in essential services in the strict sense of the term. ***The Committee requests the Government to take all necessary measures to amend the provisions of the Labour Code concerning arbitration based on the above principle.***
	2010, 2014, 2016, 2021, 2022 (Observations)	Requisitioning	*The Committee* ***previously noted*** *that section 228 of the Labour Code provides that the* ***right to strike "may be limited by requisitioning only in case of the disruption of public order or where the strike would endanger the life, safety or health of the whole or part of the population"****. The Committee recalls that the reference to cases of "acute national crisis", rather than to the notion of the disruption of public order, would better reflect the position of the ILO supervisory bodies and could moreover lead to the repeal of section 21 of Act No. 69-15 of 15 December 1969, which provides for the possibility of requisitioning workers in the event of the proclamation of a state of national necessity.* ***The Committee requests the Government to take necessary measures to that end****.*
32. Malawi	2006, 2007, 2008, 2010, 2011, 2014, 2017 (Observations) 2001, 2002, 2004, 2018, 2021 (Direct requests) No more observations after 2021	Illegal strikes – essential services	***2006:*** *In addition, in its previous comments, the Committee had noted that section 45(3) and 47(2) of the Labour Relations Act of 1996 empower the parties concerned to apply to the Industrial Relations Court for a determination as to whether a* ***particular strike involves an essential service****.* ***The Committee once again requests the Government to provide information on any strike declared illegal and the reasons, therefore, as well as on any decisions rendered by the Industrial Relations Court under sections 45(3) and 47(2) of the Labour Relations Act.***
	2006, 2007, 2008 (Direct requests)	Dismissal of striking workers	***2006:*** *The Committee also notes that section 49 of the Labour Relations (Amendment) Bill, 2006, provides for the prohibition for the employer to take disciplinary action or dismiss an employee for participating in a strike in conformity with this Act. However, section (2) of this Bill provides that an employer may fairly dismiss an employee on grounds of operational requirements, notwithstanding that the operational requirements resulted from a strike in conformity with this Act. The Committee recalls that although the inclusion of dismissal on grounds of operational requirements is generally acceptable, in*

			the specific situation of a strike this could lead to those involved in the strike being targeted and therefore constitute discrimination in employment. ***The Committee therefore requests the Government to take the necessary measures in order to ensure the full conformity of the forthcoming legislation with the Convention. It requests the Government to keep it informed of any development in this regard and to transmit a copy of the amended text, when adopted.***
33. Mali	1993, 1995, 1996, 2002, 2004, 2006, 2008, 2010 (Observations) 2014, 2017, 2021 (Direct requests)	Minimum service	***1993:*** *The Committee also notes Decree No. 90-562/P-RM of 22 December 1990 establishing the list of jobs and services which are essential to the maintenance of minimum services in the event of a strike in the public services, communicated by the Mali National Union of Workers. The Committee observes that* ***the above list allows compulsory maintenance of a service not only in essential services in the strict sense of the term and in the case of public servants acting as agents of the public authority, which is admissible in terms of the principles of freedom of association, but also in services which are not necessarily essential and in the case of public servants who do not necessarily act as agents of the public authority****.* *The Committee recalls that it would be preferable for workers' organizations to be able, should they so wish, to participate in defining minimum services, together with employers and the authorities in services which are not considered essential in the strict sense of the term.* ***The Committee requests the Government to provide information in its next report on the practical application of section 229 of the Code and the Decree of 22 December 1990, including any call-up orders issued, so that it can ascertain whether they are compatible with the Convention****.*
	1993, 1995, 1996, 1998, 1999, 2000, 2002, 2004, 2006, 2008, 2010 (**implemented in 2017**) (Observations)	Compulsory arbitration	***1993:*** *The Committee observes with interest that section 229 of the Labour Code, as amended, provides, as the Committee suggested, for the Minister of Labour, should one or both parties dissent, to refer a dispute to compulsory arbitration if it involves essential services whose interruption could endanger life, personal safety or health. The Committee points out, however, that the same section continues to empower the Minister to order compulsory arbitration to end a strike in essential services whose interruption could impair the proper functioning of the national economy or a strike in a vital occupation.* ***In this connection, the Committee recalls that it suggested that the Government amend its***

			legislation to limit the Minister's powers to strikes which, by reason of their scope and duration, could lead to an accute national crisis.
34. Mauritania	1990, 1991, 1993, 1994, 1995, 1996, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2006, 2008, 2010, 2014, 2015, 2017, 2021 (Observations)	Compulsory arbitration and essential services	***1990:*** *The Committee* ***recalls that the divergencies between the national legislation and the Convention relate to the single-trade-union system established in the legislation and the prohibition of a strike where a collective dispute has been referred to compulsory arbitration****, even where this does not affect an essential service in the strict sense of the term.* ***For several years, the Committee has been asking the Government:*** *- to repeal the provisions of Act No. 70-030 of 23 January 1970 that amend certain provisions of Book III of the Labour Code: - section 1: providing that persons carrying on the same occupation, similar crafts or allied trades associated with the preparation of given products or belonging to the same profession may establish only "one occupational association" per class of persons as defined above and that any worker or employer may freely join the trade union of his occupation; - section 2: providing that that any natural person or physical entity may freely join the trade union of his occupation; - the amendment of the provisions of Book IV of the Labour Code (as amended by Act No. 74-149 of 11 July 1974): - sections 39, 40 and 45 empowering the Minister of Labour, where an objection to the recommendations of the Mediation Board has been notified, taking into account the circumstances and the effects of the dispute, to submit the dispute to compulsory arbitration; - section 48 prohibiting a strike after a decision of the Minister to resort to arbitration. 1. As regards the question of the single-trade-union system, the Government stated to the Conference Committee in 1987 that nothing in the legislation prohibits unions from creating unions or confederations other than the Trade Union Federation of Mauritania since, although the legislation provides for only one trade union per occupation, those unions can in turn form other central trade union organisations. Furthermore, the Government adds that the current system is the expression of the wish of the workers and it is not for the Government to impose a different situation if the workers are satisfied with the current trade union structure. While noting these statements, the Committee is once again bound to note that Book III of the Labour Code, as amended, by providing in section 1 that one occupational association may be established per occupation and, in section 22, read in conjunction with sections 1 and 2, that trade unions can only be established by occupation, does not permit workers or their base-level organisations to establish, respectively, organisations and federations of their own choosing, contrary to Articles 2, 5 and 6 of the Convention. The Committee draws the Government's attention to the fact that the purpose of the Convention is not to express*

			support either for the idea of trade union unity or for that of trade union pluralism. However, even in a situation where, at some point in the history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure, which is not permitted by the legislation when it establishes a single-trade-union system. In its previous observation, the Committee noted that sections 226, 228 and 229 of the draft Labour Code of 1984 provided that persons carrying on the same occupation, similar crafts or allied trades may establish an occupational association, although the draft omitted to add, as the 1979 draft drawn up with the assistance of the ILO had provided, that any worker or employer must be able to join freely an association of his own choosing within his occupation. It also referred to the difficulties in trade union life noted by the Committee on Freedom of Association in Case No. 1088 of 1982 which continued to exist. The Committee therefore requests the Government to amend the legislation to enable workers who so wish, to freely establish and join associations of their own choosing, as set out in Article 2 of the Convention, which, as already indicated by the Committee, would contribute to finding a solution to the problems in question. 2. With regard to the prohibition on strikes after a dispute has been referred to compulsory arbitration, the Committee notes the Government's statement to the effect that strikes are not really a solution to the crucial problems of the social partners. According to the Government, consultation should prevail and recourse to strikes should only occur when the possibility no longer exists for the workers to obtain satisfaction for their legitimate claims. Referral to compulsory arbitration with the possibility of appeal should avoid recourse strikes. The Committee once again draws the Government's attention to the fact that the provisions of Book IV respecting the settlement of disputes, which are taken up in the draft Code of 1984 (sections 292, 293, 298 and 301), by empowering the Minister (after taking into account, inter alia, the circumstances and effects of the dispute) to submit the dispute to arbitration by the Labour Court (whose decision is without appeal except for the power of review on points of law), are such as to restrict the exercise of the right to strike, which should only be restricted or forbidden in the case of public servants engaged in the administration of the State or in essential services, in the strict sense of the term, that is those whose interruption would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis. ***The Committee requests the Government to indicate in its next***

			report the measures that have been taken or are envisaged to amend the legislation in order to limit restrictions on the right to strike to the cases mentioned above*.*
35. Mauritius	2006, 2007 (Direct requests)	Restrictions	***2006:*** *The Committee notes the comments of 10 August 2006 of the International Confederation of Free Trade Unions (ICFTU) reporting* ***restrictions in the law on the right to strike, practical obstacles to the organization of workers in export processing zones and to the organization of migrant workers and of workers in the offshore business sector****. The ICFTU also refers to police repression of a demonstration of textile workers in 2005. The Committee further notes the conclusions concerning Case No. 2281, examined by the Committee on Freedom of Association at its session of June 2006, in which the abovementioned Committee refers to the need to revise the Industrial Relations Act in order to align it with the principles of freedom of association.* ***The Committee requests the Government to keep it informed of all developments in this matter and to respond to the ICFTU's comments in its first report on the application of the Convention due in 2007.***
	2007, 2008, 2010 (Direct requests)	Prior conciliation and mediation procedures	***2007:*** *The Committee observes that sections 72, 73 and 82 of the Employment Relations Bill provide for an aggregate two-month "cooling off" period between the time when negotiations fail and the time when a trade union may stage a strike. This period comprises two successive rounds of conciliation/meditation (20 days and 30 days, respectively) and ten days of strike notification. The Committee considers that the requirement of exhaustion of conciliation and mediation procedures before a strike may be called should not be so complex or slow that a lawful strike becomes impossible in practice or loses its effectiveness (see General Survey, op. cit., paragraph 171). The Committee also notes from sections 72 and 73 of the Bill that the conciliation/mediation periods may be extended at the request of the party which reports the dispute and considers that this provision entails the risk of postponing a strike indefinitely, thus rendering it impossible in practice. Such extensions should only be possible with the agreement of both parties to the dispute.* ***The Committee therefore requests the Government to indicate in its next report measures taken to amend sections 72 and 73 of the Bill, so as to shorten the conciliation/mediation period to a reasonable level and ensure that the conciliation/mediation period may be extended only with the agreement of both parties to the dispute.***
	2007, 2008, 2010, 2014, 2017 (Direct requests)	Sympathy strikes and general strikes	***2007:*** *The Committee observes that section 79(1)(a) of the Employment Relations Bill indicates that every worker has the right to strike in relation to a labour dispute and section 80 provides that no person shall take part in a strike where the labour dispute*

			does not relate to the collective interest of a group of workers. Section 2 of the Employment Relations Bill defines a labour dispute as a dispute between a trade union and an employer which relates wholly or mainly to wages, terms and conditions of employment, promotion, etc. as well as procedural matters and facilities. The Committee observes that these provisions do not allow for solidarity strikes, or strikes related to matters of general economic policy, or strikes linked to negotiations above the enterprise level. The Committee has repeatedly noted in the past that, while purely political strikes do not fall within the scope of freedom of association, organizations responsible for defending workers' socio-economic and occupational interests should, in principle, be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and on workers in general, in particular as regards employment, social protection and the standard of living (see General Survey, op. cit., paragraph 165). Thus, workers' organizations, including federations and confederations, should be able to call for industrial action at levels above that of the enterprise. Moreover, a general prohibition of sympathy strikes could lead to abuse and workers should be able to take such action provided the initial strike they are supporting is itself lawful (see General Survey, op. cit., paragraph 168). ***The Committee therefore requests the Government to indicate the measures taken so as to amend the definition of labour dispute in section 2 and the provisions of section 79 and 80 of the Employment Relations Bill, so as not to exclude the possibility of staging strikes in relation to general economic policy, negotiations above the enterprise level and sympathy strikes.***
	2007, 2008, 2010, 2014, 2017, 2021 (Direct requests)	Compulsory arbitration	***2007:*** *The Committee observes that sections 73(5)(b)(i) and 79(1)(c) of the Employment Relations Bill provide that, where conciliation fails, the party which reported the dispute to the authorities has the option to bring it before the tribunal for final determination. In addition to this, section 85(1)(b) provides that the Prime Minister may apply to the Supreme Court for an injunction prohibiting the continuation of a lawful strike where the duration of the strike threatens to affect an industry or service or employment and then may refer the dispute to compulsory arbitration. The Committee observes that this system of compulsory arbitration, at the initiative of the authorities or one of the parties to the dispute, makes it possible to prohibit virtually all strikes and can seriously limit the means available to trade unions to further and defend the interests of their members, organize their activities and to formulate their programmes, thus raising problems with regard to Article 3 of the Convention (see General Survey, op. cit., paragraph 153). The Committee*

			recalls that compulsory arbitration is acceptable only if it is at the request of both parties to a dispute, or in the case of disputes in the public service involving public servants exercising authority in the name of the State or in essential services in the strict sense of the term, namely, those services whose interruption would endanger the life, personal safety or health of the whole or part of the population. ***The Committee therefore requests the Government to indicate in its next report the measures taken to amend sections 73(5)(b)(i), 79(c) and 85, so as to ensure that compulsory arbitration may be imposed only in the cases noted above.***
	2007, 2008, 2010, 2014, 2017, 2021 (Direct requests)	Strike ballot	***2007:*** *The Committee further notes that section 81(3) of the Employment Relations Bill provides that a strike ballot shall be successful where it obtains an absolute majority of the workers concerned by the dispute. The Committee considers that although a requirement of strike ballot does not, in principle, raise problems of compatibility with the Convention, the ballot method, the quorum and the majority required should not be such that the exercise of the right to strike becomes very difficult, or even impossible in practice; if a member State deems it appropriate to establish in its legislation provisions which require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey, op. cit., paragraph 170).* ***The Committee therefore requests the Government to indicate, in its next report, the measures taken to amend section 81(3) of the Bill so as to take account only of the votes cast in determining the outcome of a strike ballot.***
	2008, 2010, 2014, 2017, 2021 (Direct requests)	Minimum service	***2008:*** *The Committee notes from the Government's report that section 82(a) of the ERA provides that where the duration of a strike or lockout which is not unlawful is such that an industry or a service is likely to be seriously affected, or employment is threatened, or where the Prime Minister is of the opinion that the continuance of the strike or lockout may result in a real danger to life, health or personal safety of the whole or part of the population, the Prime Minister may apply to the Tribunal for an order for the establishment of a minimum service. The Committee also notes that the third schedule to the ERB contained a list of services requiring a minimum service and that hotel services figured on that list. The Committee considers that a minimum service would be appropriate in services of public utility (services d'utilité publique) in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes (General Survey, op.cit., paragraph*

			160). The Committee notes that the fact that a service, industry or employment may be threatened by the duration of a strike does not in and of itself justify the introduction of a minimum service; furthermore, hotel services are not services of public utility. ***The Committee therefore requests the Government to indicate in its next report the measures taken to amend section 82(a) so that a minimum service may not be imposed for the mere reason that the duration of a strike may affect a service or industry or employment. It also requests the Government to indicate whether hotels still figure on the list of services in which a minimum service may be imposed under the ERA and, if that is the case, to indicate in its next report the measures taken to remove the hotel services from the list of minimum services.***
	2014, 2017, 2021 (Direct requests)	Prohibition during collective agreement and compensatory procedures	***2014:*** *The Committee notes that the Employment Relations (Amendment) Act 2013 amends sections 67 and 77(b) of the ERA so that* ***labour disputes may not be reported, nor recourse to strike allowed, when a collective agreement is in force****. The Committee further notes the observations of the General Workers Federation (GWF) and four unions of the sugar industry in this regard. The Committee recalls that if legislation prohibits strikes during the term of collective agreements, this major restriction on a basic right of workers' organizations must be compensated by the right to have recourse to impartial and rapid arbitration machinery for individual or collective grievances concerning the interpretation or application of collective agreements. Such a procedure not only allows the inevitable difficulties of application and interpretation to be settled during the term of an agreement, but has the advantage of clearing the ground for subsequent bargaining rounds by identifying the problems which have arisen during the term of the agreement (General Survey on freedom of association and collective bargaining, 1994, paragraph 167).* ***The Committee requests the Government to provide information on any compensatory procedures existing or envisaged.***
36. Mozambique	2008, 2010 (Observations)	Essential services	***2008:*** *The Committee observes that some provisions of the Labour Act are not consistent with the Convention:* - *section 189, which provides for compulsory arbitration for the essential services listed in section 205 which include the postal service, the loading and unloading of animals and perishable foodstuffs, weather monitoring and fuel supply, and also for export processing zones (section 206 and Decree No. 75/99). The Committee recalls that compulsory arbitration to end collective labour disputes or strikes is acceptable only when requested by both parties to the dispute or in cases where the strike may be restricted or prohibited, namely in the case of a dispute in the public service*

			involving public servants exercising authority in the name of the State or in essential services in the strict sense of the term, that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. ***In these circumstances, the Committee takes the view that any disputes that arise in the abovementioned services should not be subject to compulsory arbitration and that they could be dealt with under the mediation and conciliation procedures provided for by law****;*
	2008, 2010 (Observations)	Duration	***2008:*** *The Committee observes that some provisions of the Labour Act are not consistent with the Convention:* – *section 207, which provides that the notice of strike must state the duration of the strike.* ***In the Committee's view, workers and their organizations should be able, if they so wish, to call an indefinite strike****;*
	2008, 2010 (Observations)	Compulsory arbitration	***2008:*** *The Committee observes that some provisions of the Labour Act are not consistent with the Convention:* – *section 212,* ***which allows a strike to be ended by a decision of the mediation and arbitration body. The Committee considers that this is a decision for the workers and the organizations that called the strike****;*
	2008, 2010, 2015, 2017, 2018, 2021 (Observations)	Penal sanctions	***2008:*** *The Committee observes that some provisions of the Labour Act are not consistent with the Convention:* – *section 268(3), which provides that any breach of sections 199 (freedom to work of non-strikers), section 202(1) and section 209(1) (on minimum services) constitutes a breach of discipline for which the workers on strike are civilly and penally liable.* ***The Committee reminds the Government that strikes should not be subject to penal sanctions except in the event of non-compliance with prohibitions on strikes that are consistent with the principles of freedom of association, and that any penalty imposed for unlawful activities relating to strikes should be proportionate to the offence or misconduct, and that imprisonment for those organizing or participating in a peaceful strike should be excluded by the authorities****.*
37. Namibia	1997, 1998, 1999, 2000, 2002 (Observations)	EPZ prohibition of strike	***1997:*** *In this regard, the Committee notes with interest the adoption of the Export Processing Zones Amendment Act, 1996, which provides that the Labour Act shall be applicable in an export processing zone, subject to certain modifications and exceptions. The Committee must, however, note with concern that the EPZ Amendment Act prohibits any employee from taking action by way of, or participating in, a strike in an export*

			processing zone. In this respect, the Committee would draw the Government's attention to paragraph 169 of its 1994 General Survey on freedom of association and collective bargaining in which it has indicated that the prohibition of strikes in export processing zones is incompatible with the provisions of the Convention, which provide that all workers, without distinction whatsoever, shall have the right to establish organizations of their own choosing and that such organizations shall have the right to organize their activities and to formulate their programmes without interference by the public authorities (Articles 2 and 3 of the Convention). ***The Committee therefore requests the Government to take appropriate steps to further amend the Export Processing Zones Act so as to ensure that workers in export processing zones, like other workers in the country, are not denied the right to strike and requests the Government to indicate in its next report the progress made in this regard***.
	2008, 2010, 2014 (Direct requests)	Determination of essential service	***2008:*** *The Committee notes that section 77 establishes the procedures for the determination of an essential service, and in particular that the final decision on the determination of a service as essential rests with the Minister of Labour, after consideration of the recommendations formulated by the Labour Advisory Council (sections 77(4) and 77(15)).* ***The Committee requests the Government to indicate whether parties directly affected by decisions of the Minister taken under section 77 of the Labour Act may appeal the Minister's decisions, and if so to indicate the legal provision providing for this right of appeal.***
38. Niger	1997, 1998, 1999, 2000, 2002, 2003, 2004, 2005, 2006, 2008, 2010, 2014, 2016, 2017, 2021 (Observations) No more comments after 2021	Requisitioning of public employees	***1997:*** *The Committee notes that for state employees the exercise of the right to strike is governed by Order No. 96-009 of 21 March 1996, section 9 of which provides that in vital and/or strategic services, a minimum service must be provided on the basis of agreement between the authorities and trade unions, but also in accordance with the application of the Convention. However, section 9 also provides that in exceptional cases arising as a result of the need to preserve the general interest, all state employees, or those of territorial authorities, may be requisitioned. In the view of the Committee, the scope of this provision should be restricted only to cases in which a work stoppage may give rise to an acute national crisis or to public servants exercising authority in the name of the State, or also to essential services in the strict sense of the term, i.e. services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see 1994 General Survey on freedom of association and collective bargaining,*

			paragraphs 158 and 163). ***The Committee requests the Government to indicate in its next report the measures taken or envisaged to guarantee, in law and in practice, respect for the principles of freedom of association in this regard. It also requests the Government to provide it, in future, with copies of the requisition orders adopted in case of strikes****.*
39. Nigeria	1989, 1991, 1992, 1993, 1995, 1998, 1999, 2000, 2002, 2004, 2006, 2008, 2009, 2010, 2011, 2012, 2014, 2015, 2016, 2017, 2021 (Observations)	Compulsory arbitration	***1989:*** *With regard to the restrictions on the right to strike which may result from the imposition of compulsory arbitration (Decree No. 7 of 1976), the Government states that the legislation in question is intended to bring to an end a dispute before it becomes uncontrollable and to prevent workers and their families, to whom no pay is given during strikes, being without resources for a long period. However, the Government repeats its previous statements to the effect that, in practice, workers have on various occasions called a strike without it taking action.* *The Committee recalls that the exercise of the right to strike should be one of the means available to workers and their organisations for the promotion and defence of their interests, and that restrictions or bans on strikes should be imposed only on public servants acting in their capacity as agents of the public authority or in essential services in the strict sense of the term, namely those whose interruption would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national emergency for a limited period (in this connection see paragraphs 200, 214 and 226 of the General Survey).* ***The Committee expresses the firm hope that the Government will examine attentively the conclusions and observations that it has set out above and requests it to indicate in its next report the measures that have been taken to suppress the single-trade-union system that is imposed by law, to grant the right to organise to all workers other than those in the armed forces and the police, to limit the powers of the authorities concerning the supervision of trade union finances and to remove the excessive legal restrictions on the exercise of the right to strike.***
40. Rwanda	1993, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2019, 2022 (Observations)	State service	***1993:*** *The Committee, however,* ***requests the Government to indicate in its next report the measures which have been taken or are envisaged to amend section 26 of the Legislative Decree of 19 March 1974*** *to issue the general conditions of service of employees of the State which, under its present wording, continues to* ***forbid state employees to take part in strikes or in activities aimed at causing a strike in the state***

			services, with a view to limiting the restrictions on the right to strike to those which accord with the principles of freedom of association*.*
	2002, 2004, 2006, 2008, 2009, 2010, 2011, 2012 (Observations)	Essential service	***2002:*** ***The Committee notes that section 191 of the new Labour Code provides that the right to strike of workers in jobs that are indispensable for the safety of persons and goods, and in jobs the cessation of which would jeopardize human safety and life, shall be exercised subject to specific procedures****, for which the rules are to be set out in an order made by the Minister of Labour.* ***In this respect, the Committee requests the Government to provide a copy of the above order so that it can ascertain its conformity with the provisions of the Convention.***
41. Sao Tome and Principe	2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 (Observations) 2015, 2018, 2019, 2020, 2021, 2022, 2023 (Direct requests)	Majority for calling a strike	***2000:*** *The Committee notes that section 4 of Act No. 4/92 establishes that decisions on the calling of strikes must be adopted by a two-thirds majority of the workers present at the general assembly convened for the purpose.* ***The Committee considers that the requirement of two-thirds of the workers is high and could be an obstacle to the exercise of the right to strike and that it would therefore be appropriate for the decision to be taken by a simple majority of the workers present at the assembly.***
	2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 (Observations) 2015, 2018, 2019, 2020, 2021, 2022, 2023 (Direct requests)	Minimum service	***2000:*** *The Committee also notes that paragraph 4 of section 10 of Act No. 4/92 establishes that employers determine the minimum services after consulting the workers' representative. In the Committee's view, it would be more appropriate to provide that in the event of disagreement in determining such services, the matter should be settled by an independent body.* *The Committee further notes that under paragraph 2 of section 9 of the Act, the Ministry in charge of labour administration may authorize the enterprise to hire workers to perform essential services, in order to maintain the economic and financial viability of the enterprise should it be seriously threatened by the strike.* ***Bearing in mind that the application of this provision could restrict the effectiveness of the strike as a means of pressure, the Committee considers that, in such cases, rather than authorizing the enterprise to hire workers to perform essential services, minimum services could be determined by negotiation in which the workers would participate along with the enterprise.***

	2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 (Observations) 2015, 2018, 2019, 2020, 2021, 2022, 2023 (Direct requests)	Essential service	***2000:*** *The Committee notes that, under section 11 of Act No. 4/92, compulsory arbitration applies to the essential services set out in section 10, which include postal services (c) and banking and loans (j), which are not essential services in the strict sense as explained by the Committee (services whose interruption might endanger the life, personal safety or health of the whole or part of the population) (see General Survey, op. cit., paragraph 159). T****he Committee therefore asks the Government to take the necessary steps to ensure that workers in the postal, banking and loans services may exercise the right to strike****.*
	2000, 2001 (Observations)	Grounds for strike	***2000:*** *Lastly, the Committee notes that, under section 1 of Act No. 4/92, the sole purpose of strikes is to safeguard the legitimate occupational and social interests of workers and the interests of the national economy. In the view of the Committee, organizations responsible for defending workers' socio-economic and occupational interests should, in principle, be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and on workers in general, in particular as regards employment, social protection and the standard of living (see General Survey, op. cit., paragraph 165).* ***The Committee asks the Government to state whether strikes are allowed as a means of seeking solutions to economic and social policy questions which are of direct concern to the worker****.*
42. Senegal	1993, 1995, 1996, 1997, 1998 (Observations)	Compulsory arbitration	***1993****: I****n its previous comments****, the Committee emphasized the* ***need to amend the national legislation in order to:*** *- l****imit the powers of the authorities to impose compulsory arbitration*** *to bring an end to a strike (sections 238-245 of the Labour Code) to essential services in the strict sense of the term, i.e. services whose interruption by reason of a strike would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis.* *It also notes the assurances given by the Government in its report to the effect that the draft Labour Code envisages greater flexibility in national legislation in order to permit foreign workers to hold trade union office after a period of residence of five years, and to*

			amend the provisions relating to the right to strike in order to bring them into conformity with the Convention.
	2000, 2002, 2004, 2005, 2006, 2008, 2010, 2012, 2015, 2018, 2020, 2022 (Observations)	Requisitioning	***2000:*** *The Committee notes once again that section L.276 grants the administrative authorities broad powers to requisition workers from private enterprises and public services and establishments who occupy posts considered essential for the safety of persons and goods, the maintenance of public order, the continuity of public services or meeting the country's essential needs.* *Noting that, according to the Government, the power of requisition makes it possible in cases of overriding necessity to ensure the functioning of essential services and the safety of persons and goods, t**he Committee once again requests the Government to provide a copy of the decree made under section L.26 containing the list of essential services so that it can ensure that it is compatible with the principles of freedom of association**. The Committee **recalls once again that the requisitioning of workers as a means of settling labour disputes could involve abuses**. Such action is to be avoided except where, in particularly serious circumstances, essential services have to be maintained. In the opinion of the Committee, requisitioning may be justified only in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis. It notes that the Government is prepared to amend the legislation after the completion of the deliberations of the working groups entrusted with preparing the texts to give effect to the Labour Code. The Committee requests the Government to take the necessary measures in the near future to ensure that its legislation is in full conformity with the Convention.* ***The Committee also recalls that section L.276 in fine provides that workplaces or the immediate surroundings thereof may not be occupied during a strike, under penalty of the sanctions provided for in sections L.275 and L.279. The Committee has already indicated to the Government that restrictions on workplace occupations should be limited to cases where the action ceases to be peaceful (see the General Survey, op. cit., paragraph 174)**.
43. Seychelles	2000, 2000, 2002, 2004, 2005, 2006, 2008, 2010, 2012, 2015, 2022 (Observations)	Strike majority	***2000:*** *The Committee recalls that it has been commenting for several years on the following points:*

			*- section 52(1)(a)(iv) stipulates that a **strike has to be approved by two-thirds of union members present and voting** at the meeting called for the purpose of considering the issue;*
	2000, 2000, 2002, 2004, 2005, 2006, 2008, 2010, 2012, 2015, 2022 (Observations)	Strike restriction	***2000:** The Committee recalls that it has been commenting for several years on the following points:* *- section 52(4) allows the Minister to declare a strike to be unlawful if he is of the opinion that its continuance would endanger, amongst others, **"public order of the national economy"**;* *- **certain prohibitions of, or restrictions** on, the right to strike, which may or may not be in conformity with the principles of freedom of association, sometimes provide for civil or penal sanctions against strikers and trade unions who have violated these provisions.*
	2000, 2000, 2002, 2004, 2005, 2006, 2008, 2010, 2012, 2015, 2022 (Observations)	Strike conditions	***2000:** The Committee recalls that it has been commenting for several years on the following points:* *- Section 52(1)(b) provides for a **cooling-off period** of 60 days before a strike may commence; and*
44. Sierra Leone	NO COMMENTS		
45. Somalia	2020, 2022, 2023 (Observations)	Strike in airport	***2020:** The Committee also notes the observations of the Federation of Somali Trade Unions (FESTU), received on 1 October 2020, alleging **violations of the right to organize, including the right to strike, at an airport management company, as well as pressures and threats by the police against trade union officials. The Committee requests the Government to provide its comments in this respect.***
	2020, 2022, 2023 (Direct requests)	Public service	***2020:** The Committee notes that while the draft Labour Code authorizes the right to strike for public employees except civil servants exercising authority in the name of the state (section 226(3)(b)), the draft Civil Service Law provides that federal civil service employees should only be entitled to strike if the strike does not become detrimental to public interest (article 8.1.5). The Committee recalls that the prohibition of exercising the right to strike in the public service should be limited to public servants exercising authority in the name of the State, a category that does not include, among others teachers, postal workers or railway employees (see the 2012 General Survey on the*

			fundamental Conventions, paragraph 130). It also considers that provisions prohibiting strikes on the basis of potential detriment to public order or national interest are not compatible with the right of organizations to organize their administration and activities and to formulate their programmes (see the 2012 General Survey on the fundamental Conventions, paragraph 132). **T*he Committee requests the Government to amend the draft Civil Service Law in order to ensure that prohibitions to exercise the right to strike may only relate to civil servants exercising authority in the name of the State, or to essential services in the strict sense of the term and situations of acute national crisis.***
	2020, 2022, 2023 (Direct requests)	Compulsory arbitration	***2020:*** *The Committee takes note that sections 208(1)(e) and 224(2) of the draft Labour Code could respectively allow compulsory arbitration as a result of an administrative decision by the Federal Alternative Dispute Resolution Commission or following the request of any of the parties to the Labour Court. The Committee considers that recourse to compulsory arbitration to bring an end to a collective labour dispute is only acceptable when the two parties to the dispute so agree, or when a strike may be restricted or prohibited in the case of disputes concerning public servants exercising authority in the name of the State, essential services in the strict sense of the term or situations of acute national crisis.* ***The Committee requests the Government to ensure that arbitration, whether conducted by the Federal Alternative Dispute Resolution Commission or by the Labour Court, may only take place with the approval of both parties or in circumstances in which a strike may be restricted or prohibited.***
46. South Africa	2010, 2012 (Observations)	Dismissal of strikers	***2010:*** *The Committee notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 24 August 2010, reporting in particular acts of violence and arrests of workers – including trade union leaders – during the course of demonstrations and strikes in various sectors (municipal workers, communication workers, paper workers, clothing workers, parking attendants, hotel workers, etc.), as well as the dismissal of strikers, in 2009. The Committee wishes to recall as a general principle that trade union rights include the right to organize and participate in public demonstrations and the authorities should resort to the use of force only in situations where law and order is seriously threatened. The Committee further notes that, according to the ITUC, although the right to strike is recognized for all workers including in the public sector, it is undermined by the legal right of employers to hire replacement workers during a strike. The Committee recalls that in 2008 the ITUC had sent comments on serious infringement of trade union rights including attempts to obstruct unionization in the agricultural and communication sectors, police repression during a general strike*

			and, in the mine sector, intimidation and mass dismissals following strikes. ***While taking due note of the Government's report on the implementation of the Convention, the Committee requests the Government to provide its observations to the ITUC's comments of 2008 and 2010.***
	2015, 2018, 2019, 2022, 2023 (Observations)	Arrest of strikers	***2015:*** *The Committee notes the Government replies to the 2008, 2010, 2011 and 2012 ITUC observations denouncing, in different sectors, many instances of violent repression of strike actions, leading to injuries and death, as well as the arrest of striking workers by the public authorities. The Committee notes that the Government states that: (i) the incidents pointed out by the ITUC, although regrettable, do not reflect the overall situation of crowd management by the Public Order Police; (ii) the Public Order Police takes action only in cases of extreme provocation and misconduct by the crowd during the strikes; (iii) in such cases, only non-lethal measures are used such as rubber rounds (consisting of rubber balls not bullets), stun grenades, tear gas and water canon; (iv) as from 1 April 2012, all firearms discharged by police are investigated by the Independent Police Investigative Directorate; and (v) violent behaviour during strike action is unacceptable and undermines the system of collective bargaining in the country. While taking due note of the Government replies, the Committee observes that in its 2015 observations, the ITUC denounces the arrest of 100 community health striking workers in June 2014 and the killing, in January 2014, during a clash with the Police that took place in the context of a strike, of a union steward of the Association of Mineworkers and Construction Union (AMCU).* *The Committee expresses its concern about the persistence, on the one hand, of violent incidents, leading to injuries and death, resulting from police intervention during strike actions and, on the other hand, of allegations of arrests of peaceful striking workers. The Committee recalls that, while strike actions shall be carried out in a peaceful manner, the authorities should only resort to the use of force in exceptional circumstances and in situations of gravity where there is a serious threat of public disorder, and that such use of force must be proportionate to the circumstances. Furthermore, the Committee recalls that the arrest, even if only briefly, of trade union leaders and trade unionists, and of the leaders of employers' organizations, for exercising legitimate activities in relation to their right of association constitutes a violation of the rights enshrined in the Convention.* *The Committee has also taken note of the release, on 25 June 2015, of the report of the Judicial Commission of Inquiry into the Events at Marikana Mine in Rustenburg, regarding the violent death of numerous workers during a strike action in August 2012.*

			The Committee observes that the report contains general recommendations addressing, among other elements, the use of firearms by the police during violent strike actions, the public accountability of the South African Police Service in case of similar events as well as the effective functioning of the Independent Police Investigative Directorate. ***The Committee therefore requests the Government to provide information on the action taken to implement the recommendations of the mentioned Judicial Commission of Inquiry and trusts that the social partners will be consulted in this respect. The Committee requests additionally the Government to reply to the 2015 ITUC observations and to communicate the results of the investigation regarding the death of the AMCU union steward.***
47. Sudan	NO COMMENTS		
48. Timor leste	2020, 2022, 2023 (Direct requests)	General strike	***2020:*** *The Committee further notes that the Government states that the Strike Act specifically and merely regulates the right of workers to exercise their interests in a dispute with the employer. Recalling that trade unions should be able to resort to strike action to support the position of their members in the search for solutions to problems posed by social and economic policies,* ***the Committee once again requests the Government to indicate whether workers' organizations can exercise the right to strike beyond their disputes with employers and in relation to the social and economic policies of the Government.***
	2020, 2022, 2023 (Direct requests)	Penal sanctions	***2020:*** *Concerning sanctions for strikes that fail to observe the provisions of the Strike Act, the Committee observes that, while the Government states that the penal code cannot be applied to peaceful strikes, it states so in relation to strikes not contradicting section 18.1 (concerning the provision of minimal services). Moreover, section 24 of the Act sets out, without prejudice to other more aggravating penalties provided in the law, a penalty of imprisonment of up to 6 months for organizers of a strike that did not observe the provisions in the Act. The Committee has emphasized that, while an unlawful exercise of the right to strike may give right to certain sanctions, no penal sanction should be imposed against a worker for having carried out a peaceful strike and on no account should measures of imprisonment be imposed except in cases of violence against persons or property or other serious infringements of rights and only pursuant to legislation punishing such acts.* ***The Committee requests the Government, in consultation with the social partners, to amend section 24 of the Act in order to ensure that no penal sanctions may be imposed on workers for carrying out peaceful strikes.***

	2020, 2022, 2023 (Direct requests)	Minimum service	***2020:*** *Concerning the services that the Strike Act refers to as satisfying indispensable needs and in relation to which workers are obliged to ensure the provision of minimal services (section 18.2 of the Act), the Committee observes that while the list includes essential services in the strict sense of the term (such as hospital services) and services of fundamental public importance (such as collective passenger transportation) in relation to which a negotiated minimum service may be required; the list also includes other broadly formulated services (such as "mass media" in general) which may not justify the imposition of a minimum service. The Committee requests the Government, in consultation with the social partners, to amend section 18.2 of the Act in order to ensure that the provision of minimum services may only be imposed in relation to essential services in the strict sense of the term, in services in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population, and in public services of fundamental importance. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard. Finally, the Committee had observed that the Strike Act provides that, in the absence of agreement for the determination of minimum services, these shall be determined jointly by two members of Government and the government-appointed President of the Civil Service Commission (section 18.5).* ***In the absence of comments by the Government on this matter, and recalling once again that any disagreement on minimum services should be resolved, not by the government authorities, but by a joint or independent body which has the confidence of the parties, the Committee requests the Government to amend section 18.5 of the Act in consultation with the social partners.***
49. Togo	2008, 2009, 2010, 2012, 2015 (Direct requests) 2018, 2020 (Observations)	Essential services	***2008:*** *The Committee notes that under section 273 of the Labour Code,* ***if a strike affects an essential service, the competent authority may requisition those workers in jobs that are vital to the safety of persons and goods****. The list of jobs established as such, are fixed by a decree of the Council of Ministers.* ***Moreover, under section 274 of the Code, the list of enterprises providing an essential service in the sense of section 273 is established by decree of the Council of Ministers. The Committee requests the Government to indicate whether the decrees provided under sections 273 and 274 of the Labour Code have been adopted and, if so, to provide a copy of them.***
	2008, 2009, 2010, 2012, 2015 (Direct requests)	Mediation and arbitration	***2008:*** *The Committee further notes that under section 275 of the Labour Code, during a strike, the parties are obliged to undertake negotiations under the authority of a person appointed by the Minister of Labour. The Committee wishes to draw the Government's attention to the fact that such a provision, which obliges negotiations with the involvement*

	2018, 2020 (Observations)		*of the labour authority, might infringe the trade union organizations' right to organize their activities and to formulate their programmes without interference from the public authorities, enshrined in Article 3 of the Convention. The Committee considers that it is preferable, to gain and maintain the confidence of the parties to a dispute, to leave it up to them to choose the voluntary mediation or arbitration procedures with a view to a settlement.* ***Consequently, the Committee requests the Government to amend section 275 of the Labour Code to ensure that, during a strike and with a view to settling the dispute, only the parties may, with a common agreement, decide to resort to mediation or arbitration procedures by an independent body in which they have confidence, without intervention of the public authorities.*** ***2022:*** *In its previous comments, the Committee requested the Government to amend section 275 of the Labour Code, which required the parties, during the course of a strike, to continue negotiations under the authority of a person designated by the Minister of Labour. The Committee notes with* ***satisfaction*** *the Government's indication that section 275 has been revised in order to permit the parties to a dispute to choose the procedure for the settlement of the dispute. Section 329 of the new Labour Code has accordingly removed the requirement to continue negotiations under the authority of a person designated by the Minister of Labour. It provides that "during the course of the strike, the parties shall be under the obligation to continue negotiations – The parties may, by common agreement, have recourse to a mediator."* *However, the Committee observes that provisions such as those of section 322, under the terms of which the right to strike shall be exercised under conditions of duration and according to procedures that are compatible with the intrinsic requirements of the activity of the enterprise or establishment, and section 331(b), which prohibits any strike action from being pursued at the workplace, at its perimeter or within its immediate vicinity, all constitute limitations on the exercise of the right to strike.* ***The Committee therefore requests the Government to take the necessary measures to amend sections 322 and 331 of the Labour Code.***
50. Tunisia	1989, 1991, 1995, 1996, 1997, 1998, 2000, 2002, 2003, 2004, 2006, 2008, 2010, 2011, 2012, 2015, 2018, 2022, 2023	Prior approval	**1989:** *In its previous observation, the Committee expressed the hope that the Bill to revise the Labour Code would be adopted in the near future so as to bring the provisions of the Labour Code concerning the right to strike, which have been the subject of comments for several years, into conformity with the Convention, namely:*

	(Observations)		*- sections 376 bis and 387 of the Code which prescribe that the central trade union organisation must give its* ***approval for a strike to be called****;* **2004***: **The Committee emphasizes that the incompatibility between the Convention and the obligation of first-level trade union organizations to obtain the approval of the central workers' confederation before declaring a strike, as required by section 376bis(2) of the Labour Code, has constantly been brought to the Government's attention since 1977.*** **2006:** *For many years, the Committee has been stressing that to require a base-level union to obtain the approval of the central workers' confederation before declaring a strike, as required by section 376bis(2) of the Labour Code, is inconsistent with the Convention.* ***The Government indicates in its report that the abovementioned provisions have caused no problems in practice and have prompted no observations or complaints on the part of the central workers' organization.*** *It adds that central organizations are responsible for approving strikes and are free to incorporate provisions in their statutes or rules specifying the practical arrangements for the strike. The Committee is bound to point out once again that to require by law the prior approval of the central workers' union is an impediment to the base organizations' free choice as to exercise of the right to strike. A restriction of this kind can be envisaged only where it is incorporated voluntarily in the statutes of the trade unions concerned and not imposed by law. The Committee urges the Government to take the necessary steps to repeal section 376bis(2) of the Labour Code so as to ensure that workers' organizations, irrespective of their level, may organize their activities in full freedom with a view to furthering and defending the interests of their members, in accordance with Article 3 of the Convention.*
	1989, 1991, 1995, 1996 (Observations)	Compulsory arbitration	**1989:** *In its* ***previous observation****, the Committee expressed the hope that t****he Bill to revise the Labour Code would be adopted in the near future so as to bring the provisions of the Labour Code concerning the right to strike****, which* ***have been the subject of comments for several year****s, into conformity with the Convention, namely:* *- sections 384 to 386 of the Code which provide for the ability to impose* ***compulsory arbitration to end a strike*** *that may affect the national interests;*
	1989, 1991 (Observations)	Requisitioning	**1989:** ***In its previous observation****, the Committee expressed the hope that the Bill to revise the Labour Code would be adopted in the near future so as to bring the provisions of the*

			Labour Code concerning the right to strike, which have been the subject of comments for several years, into conformity with the Convention, namely: *- section 389 which provides for the ability to* ***requisition workers*** *where a strike is considered to be such as to affect the vital interests of the nation.* ***The Committee trusts that it will be possible for the Bill relating to the above provisions to be re-examined in the light of its comments and to be adopted in the near future. It requests the Government to provide information on the progress made in harmonising its legislation with the Convention.***
	1989, 1991, 1993 (Observations)	Majority	**1989:** *The Committee notes from the Government's report that the above Bill, which has been the subject of broad consultations, is to be examined item by item by the Council of Ministers before being adopted by the Chamber of Deputies. Thus, after examining the Bill concerning the representation of staff in enterprises, the Council of Ministers is to address the question of aligning national legislation with international labour standards.* *In this context, the Committee wishes to recall that, while the proposed amendments to the provisions of the Labour Code on which it has already given its opinion in previous comments, tend towards a better application of the Convention, the proposed amendment whereby an* ***absolute majority of the workers concerned is needed to call a strike*** *should be modified so that the decision to have recourse to a strike may be taken by a simple majority of the voters in an enterprise (excluding workers not participating in the ballot).* ***The Committee again draws the Government's attention to the need to amend section 389 of the Code in order to confine the authorities' power to requisition workers to cases in which a strike would affect essential services in the strict sense of the term, i.e. services whose interruption would endanger the life, personal safety or health of the whole or part of the population****.*
51. Uganda	2013 (Observations)	Compulsory arbitration	***2013:*** *In its previous comments, the Committee requested the Government to take measures to amend or repeal the following provisions of the 2006 Labour Unions Act (LUA) and the 2006 Labour Disputes (Arbitration and Settlement) Act (LDASA):* *– Section 5(1) and (3) of the LDASA (referral of non-resolved disputes to compulsory arbitration by or at the request of any party) and section 29(2) of the LDASA (responsibility for declaring a strike illegal lies with the Government).* ***The Committee requests the Government to take steps to amend these provisions.***

	2015, 2018, 2019, 2022 (Observations)	Police intervention and imprisonment	***2015:*** *The Committee notes the Government's reply to the observations of the ITUC received in 2012 and 2013, relating to allegations of government interference in union elections, police intervention during a strike and restrictions to freedom of assembly imposed by the Public Order Management Act 2013. As to the allegations of interference in union elections, the Committee recalls that any intervention by the public authorities in trade union elections runs the risk of appearing to be arbitrary and thus constituting interference in the functioning of workers' organizations, which is incompatible with* Article 3 of the Convention. *As to the other allegations, the Committee notes that the Government indicates that it intends to regulate public gatherings and enforce section 5 of the Public Order Management Act 2013 for purposes of achieving harmony and peace in the country. The Committee observes that the Public Order Management Act 2013, which regulates the exercise of the rights to freedom of assembly and to demonstrate, establishes certain requirements (including timeframes for giving notice of the meetings and time limits during which public meetings can take place), some of which have been criticized by the ITUC. The Committee also notes that the Act provides that organizers of public meetings, who fail to comply with the requirements of the Act, commit an act of disobedience of statutory duty which is punishable under the Penal Code with imprisonment. The Committee recalls that: (i) the right to organize public meetings and processions constitutes an important aspect of trade union rights; (ii) the authorities should resort to calling in the police in a strike situation or demonstration only if there is a genuine threat to public order; (iii) no penal sanction should be imposed on workers for having carried out a peaceful strike or demonstration; and (iv) the implementation of the Public Order Management Act 2013 should not impair the exercise of the rights enshrined in the Convention.* ***The Committee trusts that the Government will ensure respect for these principles and, to that end, it requests the Government to discuss with the social partners concerned the application and impact of the Public Order Management Act 2013, and to provide information in this regard.***
	2015, 2018, 2019, 2022 (Observations)	Declaration of illegal strike	***2015:*** *-Section 29(2) of the LDASA (responsibility for declaring a strike illegal lies with the Government). The Committee notes that the Government indicates that the responsibility for declaring a strike illegal lies with the Labour Officer, who is an officer of the Government, and that therefore any action by such officer is an action of the Government.* ***The Committee recalls once again that the responsibility for declaring a strike illegal should not lie with the Government, but with an independent body that has***

			the confidence of the parties involved. The Committee requests the Government to take the necessary steps to amend this section of the Act in compliance with this principle.
52. United Republic of Tanzania	2003 (Direct requests)	Metereological service (implemented in 2004)	**2003:** *The Committee notes with interest that upon adoption of the Employment and Labour Relations Bill, certain provisions of the Industrial Court of Tanzania Act, 1967 which considerably restricted the right to strike (compulsory arbitration at the discretion of the labour authorities, two-thirds majority for a successful strike ballot and heavy penalties in case of participation in an unlawful strike), will be repealed. The Committee also notes with interest that contrary to section 77(3) of the TUA, the Bill does not make reference to the law relating to riot, unlawful assembly, etc.* *The Committee further notes however that* ***meteorological services are listed among the essential services*** *in section 77 of the Bill. The Committee considers that meteorological services are not essential services in the strict sense of the term, i.e., those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; rather than imposing an outright ban on strikes in these services, the authorities could establish a system of minimum service (see General Survey, op. cit., paragraphs 159 and 160).* ***The Committee requests the Government to modify section 77 of the Bill so as to exclude the personnel of meteorological services from the list of essential services.***
	2003, 2004, 2006, 2008 (Direct requests) 2009, 2010, 2012, 2015, 2018, 2022 (Observations)	Designation of essential services and minimum service	**2003:** *The Committee notes that Part 4 of the draft Labour Institutions Bill establishes an Essential Services Committee entrusted with designating essential services and determining disputes about whether or not an employee or employer is engaged in a designated esse Section 64(1) of the LRA provides that the following may not engage in strikes, or conduct in contemplation or furtherance of a strike: (a)* ***employees of any public authority who are actually engaged in the management of such authority; and (b) employees actually engaged in the management of a business of the employer for which such employee is engaged****. Furthermore, section 64(2)* ***lists several services, including the sanitation service, that are deemed to be essential and in which strikes are prohibited.*** *The Committee recalls, in this connection, that the right to strike may be restricted or prohibited: (1) in the public service only for public servants exercising authority in the name of the State; or (2) in essential services in the strict sense of the term (that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population). The Committee requests the Government to take the necessary measures to amend sections 64(1) and 64(2), in keeping with the*

			*abovementioned principle. Further, the Committee recalls that a **negotiated minimum service could be established during strikes in the sanitation service.** Such a service must be limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, and **workers' organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities.** The Committee also notes that according to section 77 of the draft Employment and Labour Relations Bill, the Essential Services Committee may designate an essential service after, inter alia, conducting an investigation and holding a public hearing on the matter, and shall publish a notice to that effect in the Gazette. The Committee requests the Government to keep it informed of any **designations of essential services** that the Essential Services Committee may make, once it has been established.*
	2008 (Direct requests) 2009 (Observations)	Prerequisites for a strike	**2008**: *Section 63(2)(b) requires the **exhaustion of dispute resolution procedures**, followed by a mandatory cooling-off period of at least 30 days following the failure of the dispute resolution procedure, before parties may resort to industrial action. As section 74(2) establishes a mediation period of 30 days, the total waiting period before engaging in a strike is a minimum of 60 days. The Committee recalls that provisions establishing a mandatory cooling-off period though conciliation or mediation before a strike may be called cannot be regarded as infringements of freedom of association; such machinery must, however, have the sole purpose of facilitating bargaining: it should not be so complex or slow that a lawful strike becomes impossible in practice or loses its effectiveness (see General Survey, op. cit., paragraph 171). **The Committee therefore requests the Government to take the necessary measures to shorten the time period (to a maximum of 30 days, for example) before engaging in industrial action, as established under section 63(2)(b) of the LRA.***
	2003, 2004, 2006 (Direct requests) 2009, 2010, 2012, 2015, 2018, 2022 (Observations)	Protest strikes	**2003:** *The Committee notes that sections 4 and 84 of the draft Employment and Labour Relations Bill allows for **protest action, i.e., strikes in disputes that are not interests disputes**. However, it appears from section 4 that such action is not lawful when it takes place in relation to a dispute "in respect of which there is a legal remedy". The Committee requests the Government to provide information on the scope of this provision and the type of action referred to for which there might be a legal remedy.*
	2003, 2004, 2006 (Direct requests)	Public service	**2003:** *With regard to the **right to strike in the public service**, the Committee notes that section 22 of the draft Public Service (Negotiating Machinery) Bill prohibits strikes by*

	2009, 2010, 2012, 2015, 2018, 2022 (Observations)		*"staff grade officers" which include, according to section 2(c) and (d), the head of public learning institutions and any other government employee declared as a staff grade officer by the Minister of Public Service Management. The Committee notes that the right to strike may be restricted for public employees only when they are exercising authority in the name of the State (see General Survey, op. cit., paragraph 158). All other persons employed by the Government, public enterprises or autonomous public institutions, including teaching staff or educational institution directors, should be able to exercise the right to strike. The Committee requests the Government to* ***consider modifying section 22 so as to fully guarantee the right to strike of public employees not engaged in the administration of the State including head teachers/school directors****.* **2004:** *(a) the need to ensure the right to organize for* ***the prisons service*** *and to provide clarifications on the types of workers in the national service excluded from the scope of the Employment and Labour Relations Act (section 2(1)(iii) and (iv) of the Employment and Labour Relations Act);* **2012***: In its previous comments, the Committee requested the Government to amend section 26(2) of the Public Service (Negotiating Machinery) Act (No.19 of 2003) requiring* ***certain conditions to be satisfied for civil servants to take part in a strike****, since the provision could constitute an act of interference in trade union activities (the supervision by the administrative authority of a strike ballot under section 26(c)), could unnecessarily hinder the possibility of carrying out a strike (the requirement of a decision of the majority of the public servants of the respective service scheme for the calling of a strike under section 26(c)) and could constitute an obstacle to collective bargaining (a 60 days' notice to be served to the Government from the date of the ballot under section 26(d)). The Committee notes the Government's indication according to which the ELRA also applies to workers in the public service in Mainland Tanzania and that it is provided under section 80(1) of the said Act that a strike has to be called by a trade union and a ballot is conducted under the union's constitution. Thus, the public servants have the right to choose either the Public Service (Negotiating Machinery) Act or the ELRA. The Government adds as an example that the Teachers' Trade Union called a strike under the ELRA. While taking due note of the possibility for workers in the public sector to call a strike under the ELRA, the Committee considers that section 26(2) of the Public Service (Negotiating Machinery) Act should be put in line with the relevant provisions of the*

			ELRA in order to align the two pieces of legislation and requests the Government to indicate any development in this regard.
	2003, 2004 (Direct requests)	Compulsory arbitration in public service	**2003:** *The Committee also notes with regard to public employees' right to strike that sections 12, 13(b), 15, 17(1) and (2) and 19 of the Public Service (Negotiating Machinery) Bill establish a* ***system of compulsory arbitration*** *at the discretion of the authorities concerning the conditions and terms of employment of operational public service employees (i.e., supporting staff not employed in the executive or officer grade) which effectively amounts to a prohibition of the right to strike. The Committee is of the opinion that compulsory arbitration at the initiative of the public authorities is acceptable only for public employees exercising authority in the name of the State (see General Survey, op. cit., paragraphs 153 and 158) and that the scope of the abovementioned provisions, which apply throughout the public service, is excessively wide.* ***The Committee requests the Government to modify the above provisions, so as to ensure that restrictions on the right to strike in the public sector are limited to public servants exercising authority in the name of the State.***
	2003, 2004, 2006 (Direct requests) 2009, 2010, 2012, 2015, 2018, 2022 (Observations)	Strike pickets	**2003:** *Zanzibar. The Committee notes that Part VIII of the TUA on Picketing and Intimidation provides in section 56, read in conjunction with section 55, inter alia, that it shall not be lawful for one or more persons acting on behalf of a trade union, to attend at or near a place where a person works for the purpose of persuading or inducing any person to abstain from working, if they attend in such number or manner as to be likely to intimidate any person, that is to say, to cause in the mind of that person a reasonable apprehension of injury to himself or to any member of his family or to any of his dependants or of violence or damage to any person or property. The Committee considers that restrictions on* ***strike pickets*** *should be limited to cases where the action ceases to be peaceful and that the authorities should refrain from any interference which would restrict freedom of assembly except in cases of serious and imminent threats to public order (see General Survey, op. cit., paragraphs 35 and 174).* ***The Committee requests the Government to provide information on any cases in which this provision has applied and any measures taken or envisaged to ensure that pickets are sanctioned only in cases where the action ceases to be peaceful.*** *The Committee requests the Government to provide any information on the manner in which the right to strike is ensured in Zanzibar.*

			2006: *The Committee notes that section 76(3)(a) of the ELRA* ***prohibits picketing in support of a strike****, or in opposition to a lawful lockout. In this regard, the Committee recalls that it considers that restrictions on strike pickets should be limited to cases where the action ceases to be peaceful (see General Survey, op. cit., paragraph 174).* ***It requests the Government to amend section 76(3)(a) accordingly.***
53. Yemen	1994, 1995, 1996 (Observations)	Public service and essential service	***1994:*** *The Committee recalls in this respect that any* ***restrictions or limitations on the right to strike should be confined to public servants exercising authority in the name of the State or to essential services in the strict sense of the term, that is services the interruption of which would endanger the life, personal safety or health of the whole or part of the population*** *(see 1994 General Survey on Freedom of Association and Collective Bargaining, paras. 158 and 159);*
	2001, 2002, 2003, 2004, 2006, 2008, 2010, 2011, 2012, 2015, 2016, 2017, 2018, 2022, 2023 (Observations)	Strike requirements (including prior approval)	***2001:*** *In its previous comments, the Committee had also requested that the Government amend or repeal restrictions on industrial action by trade unions (section 16 of Ministerial Order No. 42 of 1975 concerning procedures for the settlement of labour disputes). The Committee had noted that certain provisions of the Code set out conditions for legitimate strike action which were too strict, namely that strikes could only be called following the completion of dispute settlement procedures, and that under sections 130, 137 and 139 of the Code the dispute could be referred to compulsory arbitration at the request of only one of the parties and the exercise of the right to strike could be suspended for 85 days. The strike call must have been submitted to the general trade union concerned, it must have been signed by two-thirds of its members and the trade union committee must have obtained written approval from the General Federation of Trade Unions. The strike must concern more than two-thirds of the workforce of the employer concerned and three weeks' notice of intention to strike must be given (section 145). The Committee considers that the fact that strike action must be approved by the General Federation of Trade Unions, by its very nature restricts the right of trade union organizations to organize their activities and to further and defend workers' interests.* ***The Committee therefore had requested the Government to repeal the provisions concerning the prior approval by the General Federation of Trade Unions in order to call a strike and to amend the provisions concerning arbitration which considerably restrict the exercise of the right to strike.*** *Noting the indications in the Government's latest report that it will take the comments of the Committee into consideration with respect to provisions covering strikes in the Labour Code, and will make the necessary amendments*

			thereto, the Committee requests the Government to indicate in its next report the progress made in this regard.
54. Zambia	2000, 2002, 2003, 2004, 2005, 2006, 2008, 2010, 2011, 2012, 2015, 2018, 2022 (Observations)	Limitations – essential services	***2000:*** *The Committee recalls that the right to strike is one of the essential means available to workers and their organizations for the promotion and protection of their economic and social interests. T**he Committee further recalls that this right can only be limited or restricted in specified circumstances, namely in the case of an acute national crisis or in essential services in the strict sense of the term, namely those services, the interruption of which would endanger the life, personal safety or health of the whole or part of the population**. If the right to strike is subject to such restrictions or prohibition, workers should be afforded compensatory guarantees, for example conciliation and mediation procedures leading, in the event of a deadlock, to arbitration machinery seen to be reliable by the parties concerned.* *The Committee notes once again that certain provisions in the Labour Relations Act, 1997, limit or restrict strikes in circumstances that go beyond those permitted under the Convention, in particular under section 78(6) to (8), a strike can be discontinued if it is found by the court not to be "in the public interest", and section 100 refers to exposing property to injury. In addition, section 107 prohibits strikes in essential services and section 107(10)(f) defines essential services broadly, in that it includes any service for the maintenance of not only safe but also sound conditions in mines, and the sewage services. The Minister, in consultation with the Tripartite Consultative Labour Council, is also empowered to add any other service to the list of essential services (section 107(10)(g)) where strikes are prohibited. The Committee notes with interest the Government's statement that during the revision of the Industrial and Labour Relations Act, it will take into consideration the previous indication made by the Committee; that is to say that the Government might substitute for the legislated restrictions that go beyond those permitted under the Convention the concept of minimum negotiated services, which should be limited to the operations that are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear. **The Committee asks the Government to inform it in its next report of any progress made in this area.***
	2000, 2002, 2003, 2004, 2005, 2006, 2008 (Observations)	Conciliation procedures	***2000:*** *With reference to its previous comments regarding the conciliation procedure that must be undertaken pursuant to section 76 of the Act before a strike can take place, the Committee takes note of the information supplied by the Government in its report to the effect that there is no time frame provided in which conciliation should end; the*

			conciliator terminates the conciliation effort when he or she is convinced that the continued effort will not result in a positive development. The Committee recalls the importance of ensuring that the procedures that are to be exhausted before a strike may be called must not be so slow or complex that a lawful strike becomes impossible in practice or loses its effectiveness. Furthermore, as regards the interpretation of section 78(1), the Committee notes that a recent decision of the Industrial Relations Court ruled that either party may now take the matter to court, and that this decision will be incorporated into law in due course. ***Recalling that recourse to arbitration should be at the request of both parties or eventually of one party in the case of strikes occurring in essential services in the strict sense of the term or in case of an acute national crisis, the Committee asks the Government to forward a copy of the decision of the Industrial Relations Court to enable it to examine its compatibility with the principles of freedom of association.***
	2000, 2002, 2003, 2004, 2005, 2006, 2008, 2010, 2011, 2012, 2015, 2018, 2022 (Observations)	Imprisonment	***2000:*** *With reference to its previous comments as regards the possibility for a police officer to arrest without a warrant a person who is believed to be striking in an essential service or who is violating section 100 and the fact that this person is then liable to a fine and up to six months' imprisonment (section 107), the Committee notes the information supplied by the Government in its report that no worker or workers have been arrested and imprisoned when the workers in an essential service resorted to industrial action and, often times, the issue of imprisonment has never been considered. However, fines have been imposed on workers who, in furtherance of their industrial action, resort to violence and their action threatens state security. The Government also states that the action usually ends at police stations after the admission of guilt and the payment of fines.* ***Nevertheless, as sanctions for strikes should not be disproportionate to the seriousness of the violation, the Committee requests once again the Government to amend these provisions to bring them into full conformity with the principles of freedom of association, in particular by removing the sanction of imprisonment for strikes other than those in essential services in the strict sense of the term or in case of an acute national crisis.***
55. Zimbabwe	2005 (Direct request) 2006, 2010 (Observations)	Essential services	***2005:*** *The Committee notes that under the terms of section 102 of the Labour Act, the Minister can declare any service essential. The Committee notes that strike in essential services as defined in section 102 is prohibited and considered to be unlawful collective action under the terms of section 104(3)(a)(i). The Committee points out that essential services are only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see General Survey, op. cit., paragraph*

			159). It ***therefore asks the Government to take the necessary measures to delete reference to the power of the Minister to declare a service essential, and thus prohibit the exercise of the right to strike, from section 102 and to keep it informed in this respect.***
	2005 (Direct request)	Majority	***2005:*** *Furthermore, a strike action taken without an agreement of the majority of the employees is also considered to be unlawful collective action (section 104(3)(e)).* ***The Committee requests that the Government amend this section so as to ensure when a vote by workers is required in order to call a strike, account is taken only of the votes cast and to keep it informed in this respect****.*
	2005 (Direct request)	Sanctions	***2005:*** *The Committee also notes that, in the case of unlawful collective action being organized, excessive sanctions are provided. Sections 109 and 112 establish possible imprisonment of the individual engaged in an unlawful collective action, while section 107 gives the power to the Labour Court to dismiss the individual engaged in such action and to suspend or rescind the registration of the trade union involved in such action. In respect of the sanctions of imprisonment, the Committee emphasizes that all penalties in respect of illegitimate actions linked to strikes should be proportionate to the offence or fault committed and the authorities should not have recourse to measures of imprisonment for the mere fact of organizing or participating in a peaceful strike. Further, concerning the sanctions of dismissal and dissolution, the Committee recalls that no one should be penalized for carrying out or attempting to carry out a legitimate strike and that, in any case, the sanctions imposed should not be disproportionate to the seriousness of the violations (see General Survey, op. cit., paragraph 178).* ***Therefore, the Committee asks the Government to amend sections 109 and 112 of the Labour Act so as to bring it into conformity with Article 3 of the Convention and to keep it informed of the measures taken or envisaged in this respect.***

COUNTRY	YEARS	ISSUES	CEACR COMMENTS
AMERICAS			
56. Antigua and Barbuda	1989,1991, 1992, 1993, 1994, 1998,1999, 2000, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2011 (Observations)	Restrictions to the right to strike - Compulsory arbitration - Essential services	**1989**: *The Committee reiterate its earlier concerns with respect to sections 19, 20 and 21 of the Industrial Courts Act 1976, which can be applied in practice to place* ***a general prohibition on the right to strike, at the initiative of one party****, as illustrated by Case No. 1296, examined by the Committee on Freedom of Association in March 1986. Under these provisions a* ***trade dispute may be referred to the Court at any stage by the minister*** *(section 19(1)) w****hen he is informed of its existence, and by a party within ten days of such knowledge*** *(section 19(2));* ***strikes and lock-outs are then prohibited. Furthermore, an injunction may be issued against a legal strike when national interest is threatened or affected*** *(section 21(1)).* *The Committee therefore* ***requests once more the Government to re-examine its legislation in respect of the right to strike and to take measures to ensure that the settlement of disputes through conciliation does not lead to restrictions on the right to strike, which can be admitted only in respect of essential services in the strict sense of the term.*** ***1998****: The Government indicated in its report in 1995 that in its opinion the Antigua legislation in relation to the right to strike is in conformity with the principles of freedom of association and the limitations would be in the interest of a civilized and orderly society. It had also given the long list of essential services where there is an established process to address industrial matters as laid down in the Labour Code and in the Industrial Courts Act.*
	2013, 2016, 2019, 2020, 2021, 2022, 2023 (Direct requests)	Restrictions to the right to strike - Compulsory arbitration - essential services	***2013:*** *The Committee therefore* ***requests the Government to take the necessary measures to review, in consultation with the social partners and, if the Government so desires, technical assistance of the Office, the Essential Services Act and sections 19, 20, 21 and 22 of the Industrial Court Act and to provide information on the concrete measures taken or envisaged in this respect****.*
57. Argentina	2006, 2007, 2009, 2010, 2011, (Observations) 2005	Determination of Minimum Services	***2006:*** *In its previous observation, the Committee noted that the CTA had referred to Decree No. 272/2006 regulating section 24 of Act No. 25877 on collective labour disputes, and that specifically, it objected that by virtue of section 2(b) of the Decree, the Guarantees Commission, which establishes minimum services, and which comprises representatives of*

	(Direct Request)		*employers' and workers' organizations as well as independent members, may act only in an advisory capacity since the final decision as to essential minimum services lies with the Ministry of Labour when "the parties have come to no agreement" or "when the agreements are inadequate".* ***The Committee requested the Government to provide information on the application in practice of the new provision, and more specifically information on the number of instances in which the administrative authority has changed the terms of the Guarantees Commission's opinion regarding minimum services.***
	2017 (Observation)	Restrictions on the right to strike in particular sector - Replacement of workers - Essential services	***2017:*** *The Committee notes the Government's replies to various allegations of violations of the Convention in practice contained in the observations of the International Trade Union Confederation (ITUC) and the Confederation of Workers of Argentina (CTA Autonomous) of 2014 and 2015. In relation to the allegations on restrictions to the right to strike in the teaching sector in the Chaco province, the Committee requests the Government to indicate whether the new regulations referred to on the appointment of substitute and temporary teachers (Decree No. 2087/15) include the possibility of replacing teachers who exercise their right to strike.* ***Furthermore, the Committee notes that the CTA Autonomous denounces the adoption of regulations*** *(Resolution No. 142 of 13 March 2016 in Buenos Aires province and Resolution No. 823 in Tierra del Fuego province)* ***which allow for the replacement of strikers who work in education. The Committee requests the Government to send its comments in this respect. In this connection, the Committee wishes to recall that public education services cannot be considered essential services in the strict sense of the term.***
58. Bahamas	2007, 2009, 2011, 2012, 2016, 2019, 2020, 2021, 2022, 2023 (Observations)	Strike ballot - Compulsory arbitration - Sympathy strikes - Sanctions	***2007****: The Committee notes section 20(3) requiring a strike ballot to be taken under supervision by an officer of the Ministry. If this section is not complied with, a strike is unlawful. The Committee considers that, with a view to ensuring freedom from any influence or pressure by the authorities, which might affect the exercise of the right to strike in practice,* ***the legislation should not provide for supervision of a ballot by the authorities****.* ***The Committee requests the Government to amend section 20(3) accordingly to the above principle and to keep it informed of the measures taken or envisaged in this respect.*** *Under the terms of section 73,* ***the Minister shall refer the dispute to the Tribunal if the parties to the dispute, within non-essential services, failed to reach a settlement. It is unlawful to recourse to strike action once the dispute is referred to the Tribunal*** *(section 77(1)). Furthermore, according to section 76(1), a strike which, in the opinion of the Minister, affects or threatens the public interest, might be referred to the Tribunal for settlement.* ***The Committee therefore requests the Government to take the necessary measures to amend its legislation so***

			as to bring it into conformity with the Convention and to keep it informed of the measures taken or envisaged in this respect. *The Committee notes that section 75 restricts the objective of a strike. It appears to the Committee that protest and sympathy strikes are illegal under the terms of section 75.* ***The Committee requests the Government to ensure the right of workers' organizations to recourse to this type of strikes and to keep it informed of the measures taken or envisaged in this respect.*** *The Committee notes that, when a strike is organized or continued in violation of the abovementioned provisions, excessive sanctions, including imprisonment for up to two years are provided (sections 74(3), 75(3), 76(2)(b) and 77(2)).* ***The Committee recalls that all penalties in respect of illegitimate actions linked to strikes should be proportionate to the offence or fault committed and the authorities should not have recourse to measures of imprisonment for the mere fact of organizing or participating in a peaceful strike. Therefore, the Committee requests the Government to amend the Labour Relations Act so as to bring it into conformity with freedom of association principles on this point****.*
	2013, 2016, 2019, 2020, 2021 (Direct request)	Strike ballot - Compulsory arbitration - Sympathy strikes - Sanctions	***2013:*** *The Committee notes section 20(3) requiring a strike ballot to be taken under supervision by an officer of the Ministry. If this section is not complied with, a strike is unlawful. The Committee considers that, with a view to ensuring freedom from any influence or pressure by the authorities, which might affect the exercise of the right to strike in practice,* ***the legislation should not provide for supervision of a ballot by the authorities. The Committee requests the Government to amend section 20(3) accordingly to the above principle and to keep it informed of the measures taken or envisaged in this respect.*** *Under the terms of section 73,* ***the Minister shall refer the dispute to the Tribunal if the parties to the dispute, within non-essential services, failed to reach a settlement****. It is unlawful to recourse to strike action once the dispute is referred to the Tribunal (section 77(1)). Furthermore, according to section 76(1), a strike which, in the opinion of the Minister, affects or threatens the public interest, might be referred to the Tribunal for settlement.* ***The Committee therefore requests the Government to take the necessary measures to amend its legislation so as to bring it into conformity with the Convention and to keep it informed of the measures taken or envisaged in this respect.*** *The Committee notes that section 75 restricts the objective of a strike.* ***It appears to the Committee that protest and sympathy strikes are illegal under the terms of section 75****.*

			The Committee requests the Government to ensure the right of workers' organizations to recourse to this type of strikes and to keep it informed of the measures taken or envisaged in this respect. *The Committee notes that, when a strike is organized or continued in violation of the abovementioned provisions, excessive sanctions, including imprisonment for up to two years are provided (sections 74(3), 75(3), 76(2)(b) and 77(2)).* ***The Committee recalls that all penalties in respect of illegitimate actions linked to strikes should be proportionate to the offence or fault committed and the authorities should not have recourse to measures of imprisonment for the mere fact of organizing or participating in a peaceful strike. Therefore, the Committee requests the Government to amend the Labour Relations Act so as to bring it into conformity with freedom of association principles on this point.*** *The Committee notes the Government's indication that the most recent amendment to the 2001 Industrial Relations Act (IRA) occurred in 2012. It observes with regret that the Industrial Relations (Amendment) Act, 2012,* ***did not address the concerns raised in its previous direct request*** *and notes the Government's statement that discussions to this end continue.*
59. Barbados	1993, 1995, 1996, 1997, 1998, 2000, 2002, 2003, 2005, 2007, 2008, 2009, 2010, 2011, 2012, 2013, (Observations) 2016, 2019, 2020, 2021 2022, 2023 (Direct Request)	Sanctions – Essential services	*1995: In its previous comments concerning section 4 of the Better Security Act of 1920 (Chapter 160) under which any person who wilfully breaks a contract of service or employment, knowing that he or she may thus endanger real or personal property, is liable to imprisonment or a fine, the Committee had noted the Government's statement to the effect that this provision had not been invoked for many years and that it was unlikely that its sanctions would be applied, since it was outdated.* *The Committee once again recalls that if this provision is applicable in the event of a strike, it should be amended in order to limit the scope of restrictions which are enforceable with penalties to essential services in the strict sense of the term,* *In its latest report, the Government indicates that the Better Security Act has not yet been amended. As the Government has indicated its intention to amend the Act since 1984, the Committee asks the Government to indicate, in its next report, the measures taken or envisaged to bring the provision in question into conformity with the principles of freedom of association.*

60. Belize	1995, 1996 (Direct Requests) 1998, 1999, 2000, 2001, 2002, 2003, 2005, 2006, 2007, 2009, 2011, 2013, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023 (Observations)	Essential services - Compulsory arbitration	**1995:** *The Committee notes the information provided by the Government in its latest report as well as the conclusions of the Committee on Freedom of Association in Case No. 1775 (295th Report, paragraphs 502-518, approved by the Governing Body in November 1994). The Committee notes from the conclusions in this case that the Settlement of Disputes (Essential Services) Act contains a list of* ***essential services which go beyond the strict sense of essential services as those the interruption of which would endanger the life, personal safety or health of whole or part of the population****.* *The Committee draws the Government's attention to paragraph 179 of its 1994 General Survey on Freedom of Association and Collective Bargaining in which it underlines that the right to strike, an intrinsic corollary of the right of association, may be prohibited only with respect to certain categories of workers, such as public servants exercising authority in the name of the State or those engaged in essential services in the strict sense of the term.* ***It therefore requests the Government to amend the schedule of essential services accordingly and to keep the Office informed of the progress made in this regard.*** **2020**: *Article 3 of the Convention. Compulsory arbitration. In its previous comments, the Committee requested the Government to amend the Settlement of Disputes in Essential Services Act 1939 (SDESA), which empowers the authorities to refer a collective dispute to compulsory arbitration to prohibit a strike or to terminate a strike in the banking sector, civil aviation, port authority, postal services, social security scheme and the petroleum sector, i.e. services that are not essential in the strict sense of the term. The Committee notes with regret the Government's indication that the SDESA has not been amended.* ***The Committee therefore reiterates its long-standing request and urges the Government to provide information on the steps taken, in consultation with the social partners, to amend the Schedule to the SDESA in order to ensure that compulsory arbitration or a prohibition on strikes is permitted only in services that are essential in the strict sense of the term – that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population.***
61. Bolivia (Plurinational State of)	1989, 1991, 1993, 1995, 1996, 1997, 1998, 1999, 2000, 2002, 2003, 2005,	Restrictions to call a strike - Strike Restrictions in non-essential services -	**1995**: *The Committee notes the Government's report, the information supplied by a Government representative and the discussion that took place in the Conference Committee in 1993. The Committee recalls that for many years its comments have been referring to the following points:*

	2007, 2008, 2009, 2011, 2013, 2016, 2019, 2023 ()	Compulsory arbitration - Sympathy strikes- Sanctions	*- the **excessive number required to call a strike** (three-quarters of the employees who are in service) (section 114 of the Act and section 159 of the Decree issued thereunder);* *-- the **prohibition of strikes in all public services** (section 118 of the Act), including banks and public markets (section 1(c) and (d) of Supreme Decree No. 1958 of 1950);* *-- the **recourse to compulsory arbitration as a means of putting an end to a strike** (section 113(c) of the Act); and* *-- the **prohibition of general and solidarity strikes under penalty of six months' detention and six months' internal exile**, with a doubling of these sentences in the event of a repetition of the offence (sections 1 and 2 of Legislative Decree No. 02565 of 1951).*
	1989 (Direct request)	Restrictions to call a strike - Strike Restrictions in non-essential services - Compulsory arbitration - Sympathy strikes- Sanctions	**1989:** *The Committee **recalls the need to reduce the majority that is currently required to call a strike** (section 114 of the General Labour Act of 1939 and section 159 of the Decree issued thereunder, No. 244 of 23 August 1943) **and to fix it at a simple majority of 50 per cent of the workers present in an enterprise during the vote on calling a strike. It would also be desirable to confine the prohibition of strikes in the public services** (section 118 of the Act), including banks and public markets (section 1(c) and (d) of Supreme Decree No. 1958 of 16 March 1950), **the recourse to compulsory arbitration as a means of putting an end to a strike** (section 113(c) of the Act) **and the prohibition of general and solidarity strikes under penalty of imprisonment** (sections 1 and 2 of the Legislative Decree of June 1951), except in the three cases in which a strike may be restricted or prohibited, that is (1) in the essential services in the strict sense of the term, that is, services where a strike would endanger the life, personal safety or health of the whole or part of the population; (2) for public servants acting in their capacity as agents of the public authority; and (3) in an acute national crisis.*
62. Canada	1989, 1991, 1993, 1994, 1995, 1996, 1998, 2000, 2002, 2003, 2004, 2005, 2006, 2007, 2009, 2011, 2012, 2016 (Observations) 2013, 2019, 2020, 2023	Right to strike for certain categories of workers – Arbitration - Essential services	**2003:** *Alberta* *The Committee recalls that its previous comments concerned the **right to strike of certain categories of employees in the hospital sector** and the right to organize of university staff.* ***The Committee notes with regret that the Government, pursuant to the conclusions of the government MLA Committee Considering a Review of the Labour Relations Code (which concluded that the Labour Relations Code is continuing to balance the needs of employees and employers and is working well), decided that further review of labour relations in the health sector is not necessary at this time.*** **2003:** *British Columbia*

	(Direct request)		*The Committee notes that Bill No. 18 made education an essential service in the strict sense of the term and Bill No. 27, under which a collective agreement was deemed to exist, had the effect of rendering any strike that might have been ongoing illegal. The Committee recalls that the right to strike is one of the essential means through which workers and their organizations may promote and defend their interests and that restrictions on the right to strike should be limited to essential services in the strict sense of the term (the interruption of which would endanger the life, personal safety or health of the population), to situations of acute national crisis or for public servants exercising authority in the name of the Sate. The Committee requests the Government to repeal the provisions of Bill No. 18 which make education an essential service and to adopt legislative provisions ensuring that workers in this sector may enjoy and exercise the right to strike.* *The Committee further notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2166 (330th Report, paragraphs 239-305) concerning the Health Care Services Continuation Act (Bill No. 2) and the Health Care Service Collective Agreement Act (Bill No. 15).* *The Committee notes that where the right to strike is legitimately restricted or prohibited (Bill No. 2 concerns the health sector which is considered an essential service in the strict sense of the term), adequate protection should be given to the workers to compensate them for the limitation thereby placed on their freedom of action with regard to disputes affecting such services. The Committee notes that the workers did not benefit from impartial and adequate compensatory procedures and that sections 2 and 3 of Bill No. 15 essentially imposed the employer's last offer. The Committee requests the Government to amend its legislation to ensure that workers in this sector enjoy adequate, impartial and speedy procedures to compensate for the restrictions in respect of the right to strike.* ***Newfoundland (1993)*** *In its previous observation, the Committee requested an update on proposed amendments to the Public Service (Collective Bargaining) Act, (No. 59) which, by its definition of "employees" excludes many public employees from belonging to the union of their own choice and restricts the right to strike in the public service.*

			Manitoba (2000) *The Committee notes the amendments made to the Labour Relations Act by Bill 44. Section 87.1(1) of the Labour Relations Act provides that, when 60 days have elapsed since the commencement of a strike or lockout and conciliation has been used, one of the parties may apply to the Labour Board of Manitoba to settle the provisions of a new collective agreement. The Committee recalls that arbitration imposed by the authorities at the request of one party is contrary to the principle of voluntary bargaining and the autonomy of the parties (see General Survey, op. cit., paragraph 257).* *The Committee requests the Government to take the necessary measures to ensure that recourse to arbitration for the settlement of conflicts is voluntary.* *2. The Committee notes the amendments made to the Public Schools Act by Bill 42, including:* *- section 110(1), which prohibits strikes by teachers;* *- sections 112(3) to 112(5), which envisage penalties of up to CAN$2,000 a day for any bargaining agent or trade union officer who declares or authorizes a strike by teachers;* *- sections 100, 103 and 108, which provide that when at least 90 days have elapsed since the commencement of collective bargaining and no collective agreement has been concluded, one of the parties may initiate arbitration proceedings to decide the matters in dispute between them with a view to the preparation of a collective agreement embodying all matters settled in the award.* *Ontario* *The Committee had requested the Government to take the necessary measures so that community workers are guaranteed the right to organize and that teachers may exercise the right to strike, and requested it to avoid having recourse to back-to-work legislation in future. […]* *In 1996 As regards the prohibition of strikes in general, the Committee notes from the Government's detailed report that there has been some progress in non-essential sectors (construction, Quebec), but must again express concern about the agricultural and horticultural sectors (Ontario) and the railway and port sectors (federal Government). The Committee requests the Government to ensure that restrictions on the right to strike are limited to essential services in the strict sense of the term, to public servants exercising authority in the name of the State or to cases of acute national crisis, in accordance with the principles of freedom of association.* *2016 The Committee notes with* ***satisfaction*** *the information provided by the Government that in 2015 the Supreme Court of Canada established, in a trilogy of cases, that the scope of*

			constitutional protection of workers' rights under section 2(d) of the Constitution (concerning freedom of association) protects the right of employees to join a trade union of their choosing that is independent of management; engage in a meaningful process of collective bargaining, which requires good faith labour–management dialogue; and engage in strike action, within certain limits.
63. Chile	2006, 2007, 2009, 2011, 2013, 2019, 2020. 2023 (Observations)	Sanctions	**2006**:*The Committee notes that the National Inter-Enterprise Union of Metallurgists, Energy, Communication and Allied Branches (SME) refers to legislative issues already raised by the Committee and that it raises objections to section 11 of Act No. 12927 on the internal security of the State, which provides* ***that any interruption or collective suspension, stoppage or strike in public services or services of public utility, or in production, transport or commercial activities which is not in accordance with the law and results in prejudice to the public order or to compulsory legal functions or damage to any vital industries shall constitute an offence and be penalized with imprisonment or banishment****. In this respect, the Committee considers that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association. Even in such cases, both excessive recourse to the courts in labour relations and the existence of heavy sanctions for strike action may well create more problems than they resolve. Since the application of disproportionate penal sanctions does not favour the development of harmonious and stable industrial relations, if measures of imprisonment are to be imposed at all they should be justified by the seriousness of the offences committed and should be subject to normal judicial review (see 1994 General Survey on freedom of association and collective bargaining, paragraph 177).* ***The Committee therefore requests the Government to take the necessary measures to repeal the above provision so as to bring the legislation into conformity with the provisions of the Convention and to provide information in its next report on any measure adopted in this respect.***
	2006, 2009 (Observations)	Prohibition of the right to strike in the public service	**2006**: *The Committee also notes the indication by National Confederation of Municipal Employees of Chile (ASEMUCH) that neither its comments nor those of the Committee have been taken into account and that the draft text of Act No. 18695 setting forth the constitutional framework for municipal authorities, which would abolish the right to strike of municipal officials and affect their rights in terms of stability of employment, training, qualifications and remuneration, has not been amended. The Committee notes the Government's indication that in 2005 a tripartite working group met, with the participation of representatives of the Government and of ASEMUCH, but that the negotiations broke down.* ***Considering that the prohibition of the right to strike in the public service should be limited to public servants***

			exercising authority in the name of the State (see General Survey, op. cit., paragraph 158), the Committee requests the Government to continue making every possible effort during the process of consultation on the above draft legislation and to keep it informed of any legislative developments in this connection.
	2006, 2007, 2009, 2011, 2013, 2019, 2020 (Observations) 2016, 2019, 2020, 2023 (Direct request)	Restrictions right to strike **(prohibition to replace striking worker and sanctions in this connection implemented in 2016)**	**2006***: The Committee also recalls that for several years it has been requesting the Government to amend or repeal a number of legislative provisions, or to take steps to secure for certain workers the guarantees afforded by the Convention.* ***The Committee regrets to note that the Government's report does not contain any information on this subject****. More specifically, the Committee requested the Government to:* *amend sections 372 and 373 of the Labour Code, under which* ***an absolute majority of the workers of the enterprise is required for a decision to strike;*** – *amend section 374 of the Labour Code, under which a* ***strike must be carried out within three days of the decision to call it****, otherwise the workers of the enterprise concerned shall be deemed to have refrained from going on strike and so accept the employer's final offer;* – *amend section 381 of the Labour Code containing a* ***general prohibition on the replacement of striking workers****, but which provides for the possibility of such replacement subject to compliance by the employer with certain conditions in the final offer during the negotiating process;* – *amend section 384 of the Labour Code which provides that* ***strikes may not be called by workers in enterprises which provide public utility services or services the interruption of which would seriously endanger the health, public supply, the national economy or national security*** *(the third paragraph of section 384 provides that, in such cases, if no agreement is reached between the parties to the bargaining, the matter shall be referred to compulsory arbitration). The Committee noted that the definition of services in which strikes may be prohibited, as set out in section 384, as well as the list drawn up by the government authorities, is too broad and goes beyond services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (for example, port enterprises, the Central Bank and the railway);* – *amend or repeal section 385 of the Labour Code which provides that, in the event of a strike which by its nature, timing or duration causes a serious risk to health, the supply of goods or services to the population, the national economy or national security,* ***the President of the Republic may order the resumption of work****;*

			– *amend section 254 of the Penal Code which provides for* ***penal sanctions*** *in the event of the interruption of public services or public utilities or the abandonment of their posts by public employees;*
64. Colombia	1990, 1991, 1992, 1993, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2007, 2008, 2009, 2011, 2012, 2013, 2016, 2019, 2020, 2023 (Observations)	Essential services - Dismissal of strikers	**2007:** *The Committee has been commenting,* ***in some instances for many years****, on the following matters:* *The* ***prohibition of strikes, not only in essential services in the strict sense of the term, but also in a very broad range of services which are not necessarily essential*** *(section 430(b) as it pertains to transport, (d), (f), (g) and (h); section 450(1)(a) of the Labour Code and Decrees Nos 414 and 437 of 1952; 1543 of 1955; 1593 of 1959; 1167 of 1963; 57 and 534 of 1967) and the possibility to* ***dismiss trade union leaders*** *who have intervened or participated in an unlawful strike (section 450(2) of the Labour Code), even when the unlawful nature of the strike is a result of requirements that are contrary to the principles of association. Observing that it has been* ***making comments for many years****, the Committee expresses the firm hope that the Government will take the necessary steps without delay to amend the legislative provisions so as to align them with the Convention. The Committee further hopes that the high-level mission undertaken in November 2007 will be useful in assisting the Government in its efforts to comply with the Convention. It requests the Government to keep it informed of any developments in this respect.* ***2009: The Supreme Court finds that "in accordance with constitutional doctrine, even where there may exist a legislative definition of the classification of a public service as essential, this does not prevent it being determined through interpretation that in a specific case a certain activity may effectively be considered an essential public service in view of its material content". The ruling continues by indicating that "this must be the case, as article 56 of the Constitution cannot lay down for the legislator an absolute classification such that the terms of the higher level or supra-legal text is sufficient in itself for the determination of a matter, without the interpreter examining its spirit or its objective, in the light of the constitutional principles". The Committee observes that it was found in the context of this ruling that "it may not be affirmed that the rail transport of freight may be considered an essential public service".***
	1990, 1991, 1992, 1993, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002,	Compulsory arbitration	**2007:** *The authority of the Minister of* ***Labour to refer a dispute to arbitration when a strike exceeds a certain period – 60 days – (section 448(4) of the Labour Code).*** *The Committee takes due note of the Government's indications of the submission to Congress of a draft law that amends this section, providing that the parties may agree to a conciliation mechanism or*

	2003, 2004, 2005, 2007, 2008, 2023 (Observations)		*arbitration to resolve their dispute, as well as the fact of the intervention of the subcommittee of the committee of consultation on wage policy and labour. However, the Committee notes that the draft law provides that if a definitive solution cannot be found, both or one of the parties may petition the Ministry of Social Welfare to convene an arbitration tribunal.* ***The Committee requests the Government to take the necessary steps to amend this principle in keeping with the principle noted above.***
	1990, 1991, 1992, 1993, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2007, 2008, 2009, 2011, 2012, 2013, 2016, 2019, 2020 (Observations)	Prohibition of strikes by federations and confederations	**2009***: The Committee referred previously to the prohibition on the calling of strikes by federations and confederations (section 417(i) of the Labour Code). The Committee recalled that higher level organizations should be able to resort to strikes in the event of disagreement with the Government's economic and social policy and requested the Government to amend the above provision. The Committee notes the Government's indication that federations and confederations cannot be assimilated to first-level organizations since those who hold a legal interest in collective bargaining are the workers who are members of enterprise, industry or branch trade unions and the employers to whom lists of claims have been submitted. The Government adds that if federations and confederations do not have a legal interest in collective bargaining, then they clearly have much less interest in strikes.* ***The Committee requests the Government to take the necessary measures to amend section 417(i) so as not to prohibit the right to strike of federations and confederations.*** **2019:** ***With reference to section 417 of the Labour Code, which prohibits federations and confederations from calling strikes, the Committee notes that the Government and the ANDI reiterate that the Constitutional Court has ruled on this provision and found that the functions of trade unions include the calling of strikes, while federations and confederations discharge the functions of providing advisory services to their member organizations.***
65. Costa Rica	1989, 1993, 1994, 1995, 1996, 1997, 1998 (**partly implemented**), 2000, 2002, 2005, 2007, 2009, 2011, 2013, 2016, 2019 (Observations)	Right to strike of trade unions of certain categories of workers - Right to strike in essential services	**1989:** *The Committee* ***recalls*** *that* ***its previous comments*** *related to the: Right of workers to formulate their programmes of action, including recourse to strikes. The Committee recalls that section 369 (a), (b), (d) and (e) of the Labour Code* ***prohibits strikes in the public services****, that is: those in which the work is performed by persons in the employment of the State or a state institution, if the work in question is not of the same nature as work performed also by private undertakings carried on for profit;* ***work performed by employees engaged in the sowing, cultivation, care or harvesting of agricultural or sylvi-cultural products or in stock-raising, and in the treatment of products*** *in cases where they would deteriorate, and those declared by the State to fall in this category.* ***The Committee therefore trusts that in the***

			near future the committee set up to draft the integral reform of the new Labour Code will bring this point into full conformity with the Convention. ***Prohibition upon exercising the right to strike in the rail, maritime and air transport sector*** **1998:** *In regard to the second question, the Committee also notes with satisfaction the information contained in the Government's report, in regard to the ruling on 27 February 1998 by the Constitutional Council of the Supreme Court of Justice which found unconstitutional the prohibition of the exercise of the right to strike in the public, agricultural and stock-raising and forestry sectors (sections 375 and 376(a) and (b) of the Labour Code).* ***Nevertheless, the Committee regrets that the prohibition on the right to strike in the rail, maritime and air transport sectors as provided for in section 376(c) of the Labour Code remains in force.*** **2000:** *The Committee notes that the Government currently prefers to remain silent on this issue while awaiting the publication of the considerations on issues of form and substance on which the Constitutional Chamber based its opinion on 27 February 1998 in declaring unconstitutional subsections (a) and (b) of section 376 (which prohibited the right to strike for public officials and agricultural workers, respectively), while maintaining this prohibition for workers in the rail, maritime and air transport sector (subsection (c)). In view of the time which has since elapsed and the fact that the CTRN, SICOTRA and the SINDHAC are criticizing the failure to comply with the Convention in the transport sector, the* ***Committee expresses the strong hope that in the very near future the Government will take the appropriate measures to give legal recognition to the right to strike of workers in the above sectors****. The Committee requests the Government to inform it in its next report of any legislative progress made in this respect and to forward a copy of the legislative text once it has been adopted.* **2013:** ***The Committee notes the Government's statement that the Bill to reform labour procedures, which covers strike-related matters, was adopted by the Legislative Assembly, but the Executive vetoed it in 2012 in the light of the provisions of the Constitution concerning the continuity of the public service, in order to ensure the continuity of essential services and services of critical importance by the provision of minimum services.*** *The Committee requests the Government to continue to promote the Bill to reform labour procedures along with the other Bills referred to above, and to provide information in this regard.*

	2019, 2010, 2023 (Direct Request)	Right to strike of trade unions of certain categories of workers - Maximum duration of a strike - Repetition of a strike - Suspension of a strike	**2019:** *The Committee recalls that* ***for years it has been indicating to the Government the need to remove the prohibition of the right to strike from workers engaged in rail, maritime and air transport enterprises and workers engaged in loading and unloading on docks and quays established under section 376(c) of the Labour Code****. In its previous comments, the Committee noted that Act No. 9808 on the provision of legal security during strikes and associated procedures of 2020 amended section 376 of the Labour Code and noted that: the amended version of section 376 of the Labour Code contains a list of essential public services where strike action is prohibited and that some of these do not constitute essential services in the strict sense of the term, such as transport services in general, including rail and sea transport, loading and unloading services for perishable foodstuffs, pharmacies, scheduled medical appointments and care, and fuel distribution. The Committee notes the Government's indication that the legislative file that issued Act No. 9808 was examined by the Constitutional Chamber of the Supreme Court of Justice and that the Court found that rail and sea transport, loading and unloading services on docks and quays of perishable foodstuffs in the public economy justified the classification of essential services.* *The Committee also expressed its unease in relation to the amendments introduced by the Act to the following provisions of the Labour Code:* *section 371,* ***imposing a maximum duration of 48 hours for strikes held in protest against public policies, whenever these have a direct impact on the economic and social interests of workers****;* *section 378, according to which a* ***strike may under no circumstances be repeated for the same reasons as a previous strike****; and* *section 661 bis, which provides that, in cases where the strike has been held in non-essential public services and has been declared legal, if eight calendar days have elapsed from the date of that declaration without the parties resolving the conflict, or at least reaching an agreement to set it aside while continuing negotiations,* ***the employer may request the court to suspend the strike if it establishes reliably that the strike is causing serious harm to the public that would be difficult or impossible to repair****. The Committee recalls that the suspension of a strike should be limited to situations in which a non-essential service becomes essential, insofar as the duration or scope of the strike endangers the life, personal safety or health of the whole or part of the population (see the 2012 General Survey on the fundamental Conventions, paragraph 131).* ***The Committee requests the Government, in the light of the foregoing comments, to take all necessary measures to ensure the conformity of the legislation and the eventual reforms to***

			the legislation with the Convention. *It also requests the Government to provide information regarding the current status of Bill No. 21049. The Committee reminds the Government that the technical assistance of the Office remains at its disposal in order to contribute to bringing the legislation into full conformity with the Convention.*
	2002, 2003, 2005, 2007, 2009, 2011, 2013 (Observations)	Percentage to call for a strike	***2002:*** *Restrictions on the right to strike: (i)* ***necessity to obtain the approval of 60 per cent of the persons who work in the enterprise, workplace or establishment concerned*** *(section 373(c) of the Labour Code); (..).* *Moreover, the Committee notes that a magistrate of the Supreme Court of Justice indicated that, of the approximately 600 strikes that have occurred over the past 20 or 30 years,* ***a maximum of ten have been declared legal, and that, according to the trade union federations, the procedure for calling a strike may take three years****.* *The Committee emphasizes that the exercise of the right to strike should not be subject to legal or practical requirements which render its legal exercise very difficult or impossible. The Committee considers that the various points raised are incompatible with the right of worker's organizations to organize their activities and to formulate their programmes in full freedom, as set out in Article 3 of the Convention, and that these matters need to be given priority by the authorities and the social partners. T****he Committee requests the Government to provide information in its next report on the measures adopted.***
66. Cuba	2003, 2005, 2007, 2009, 2011, 2012, 2013, 2016, 2023 (Observations)	Prohibition of the right to strike	2003: *The Committee notes the comments of the ICFTU, according to which the right to strike is not recognized in Cuban legislation and that its exercise in practice is prohibited. The Committee also notes the Government's indication that the legislation does not regulate, restrict or prohibit strikes, but that the workers do not need to have recourse to them because the representative trade union organizations of the workers enjoy the necessary guarantees for their participation in the various bodies, both at the enterprise and government level, for the adoption of decisions affecting their interests. The Committee recalls that the right to strike is one of the essential means available to workers and their organizations to promote their economic and social interests. It requests the Government to take measures to ensure that no one is discriminated against or prejudiced in their employment for having exercised their right to engage in peaceful strike action and to keep it informed in this connection.* **2007**: *The Committee notes the Government's repeated statement that Cuban legislation does not establish any prohibition on the right to strike, nor does the legislation establish any*

			penalty for the exercise of this right, and that it is the prerogative of trade union organizations to take the respective decisions. Cuban workers benefit from participatory and democratic social dialogue at all levels of decision-making, and an approach based on collaboration rather than conflict has been strengthened, leading to the improvement of wage levels, social security benefits and safety and health measures, among others, as well as the continued development of their capacities. Trade union representatives participate in all processes of the formulation of labour and social security legislation and on many occasions draft texts are sent for consultation to workers' assemblies in work units. According to the Government, if Cuban workers ever decided to have recourse to strike action, nothing could prevent them from exercising it.
67. Dominica	1999, 2000, 2001, 2002, 2003, 2005, 2006, 2007, 2009, 2011 (report due since 2013), 2021, 2022 2023 (Observations) 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020 (Direct Requests)	Essential services - Compulsory arbitration	**1999:** *The Committee* ***recalls that its previous comments*** *referred to the* ***need to amend legislation so that restrictions on the right to strike would only be imposed in the case of essential services, meaning the services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in case of an acute national crisis.*** *The Committee noted that the banana, citrus and coconut industries were included in the schedule of essential services annexed to Act No. 18 of 1986 on industrial relations, making it possible to stop a strike by compulsory arbitration, and that sections 59(1)(b) and 61(1)(c) of this Act empowered the Minister to refer disputes to compulsory arbitration if in his opinion serious questions were in cause. The Committee notes that the Government reiterates in its last report that the draft bill drawn up with the assistance of the ILO, which envisaged the deletion of the abovementioned sectors from the schedule of essential services and limited the powers of the competent minister to refer a dispute to compulsory arbitration to end a strike, is not yet complete.* ***The Committee firmly hopes once again that measures will be taken at an early date to bring legislation on industrial relations into full conformity with the principles of freedom of association.*** *It asks the Government to supply information in its next report on all progress in this area and to transmit a copy of the legislation in question.* **2009:** *Nevertheless, the Committee recalls that in order to avoid damages which are irreversible or out of proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes,* ***the authorities could establish a system of minimum service in services which are of public utility rather than impose an outright ban on strikes, which***

			should be limited to essential services in the strict sense of the term *(see General Survey of 1994 on freedom of association and collective bargaining, paragraph 160).*
68. Dominican Republic	1990, 1991, 1993, (Observations)	Political and sympathy strikes - Restrictions to call a strike - Compulsory arbitration - Essential services	**1990**: *The Committee also recalls that* ***for several years its comments*** *have covered the following points:* *-* ***the major restrictions on the exercise of the right to strike*** *by virtue of sections 373, 374 and 377 of the Labour Code (the prohibition of sympathy strikes and political strikes, the requirement that more than 60 per cent of the enterprise or enterprises concerned must have voted in favour of the strike, and the cessation of legal strikes and the guarantees provided for in section 375 upon initiation of the arbitration procedure which is deemed to be open from the date of the official notification referred to in section 640, which involves the resumption of work within 48 hours following the above notification);* *-* *the* ***prohibition of the right to strike in public utilities*** *listed in section 371, some of which, in the opinion of the Committee, do not come within the definition of essential services in the strict sense of the term (including, for example, transport in general, the sale of fuel for transport and the retailing of foodstuffs in markets).* *The Committee notes with satisfaction the provisions concerning freedom of association in the new Labour Code (29 May 1992), and those of the Civil Service and Administrative Careers Act (20 May 1991) which amend and repeal a number of former provisions on which the Committee had been commenting for several years.*
	2000, 2002, 2003, 2005, 2007, 2009, 2011, 2013, 2016, 2019, 2023 (Observation) 1995, 1996, 1998, (Direct Requests)	Majority to call a strike	***2000:*** *The Committee notes the Government's report and recalls that its previous comments referred to:* *- requirement of a majority of 51 votes in order to call a strike (section 407(3) of the Labour Code).* *4. The Committee notes the Government's statement that the social partners meeting in a tripartite body sought, although without success, an agreement to facilitate the preparation of a draft text to reduce the legal minimum requirement set out in section 407(3) of the Labour Code.* ***The Committee observes that the Government should ensure that account is taken only of the votes cast, and that the required quorum is fixed at a reasonable level (see 1994 General Survey on freedom of association and collective bargaining, paragraph 170). The Committee also requests the Government to take new measures and once again hopes that it will be able to provide information in its next report on the progress made in this respect.***

69. Ecuador	2009, 2011, 2013, 2014, 2015, 2016, 2017, 2019, 2020, 2021, 2022 (Observations) 2015, 2016, 2017, 2019, 2020, 2021, 2022 (Direct requests)	Conciliation and arbitration	**2009:** *The Committee notes that on 28 September 2008 a new Constitution was adopted, which entered into force on 20 October 2008. The Committee observes that some of its provisions raise problems of compatibility with the Convention:* *- article 326, paragraph 12, which establishes that* ***collective labour disputes shall, in all instances, be referred to courts of conciliation and arbitration****. The Committee reminds the Government that compulsory arbitration to end a collective labour dispute or a strike is acceptable only where requested by both parties to the dispute and where the strike may be restricted or prohibited, namely in disputes in the public service involving public servants who exercise authority in the name of the State or in essential services in the strict sense, i.e. services the interruption of which would endanger the life or personal safety of the whole or part of the population. T****he Committee requests the Government to take all necessary steps to repeal or amend this provision to ensure that compulsory arbitration is possible only in the instances cited above.***
	2009, 2011, 2013, 2014, 2015, 2016, 2017, 2019, 2020, 2021, 2022 (Observations) 2015, 2016, 2017, 2019, 2020, 2021, 2022 (Direct requests)	Public and essential services	**2009:** *Article 326, paragraph 15, which prohibits suspension of public services in education, social security, production and transformation of hydrocarbons, transport and distribution of fuel, and provides that the law will provide limits to ensure the said services' operation. In this respect, the Committee recalls that the right to strike can only be restrained or prohibited: (1) for public servants exercising authority in the name of the State; or (2) in essential services in the strict sense of term (i.e. services the interruption of which could endanger the life or personal safety of the whole or part of the population). The Committee also recalls that in order to avoid damages which are irreversible or out of all proportion to the parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum service in other services which are of public utility.* ***The Committee requests the Government to take appropriate measures in order to modify this provision so as to ensure that the right to strike can be exercised in the abovementioned services, with the possibility to provide a system of minimum services which is to be determined with the participation of workers' and employers' organizations.*** *The Committee points out that for many years it has been asking the Government to take steps to repeal or amend:* *- section 26(g) of the Codification of the Framework Act on the Civil Service and Administrative Careers and the Unification and Standardization of Public Sector Remuneration which prohibits work stoppages on any grounds in* ***public services which may not be deemed essential in the strict sense*** *(education, social security, hydrocarbon*

			production, fuel processing, transport and distribution, and public transport) and provides for dismissal for failure to observe the prohibition; *The Committee notes that in its report the Government states that a detailed study will be conducted in the National Assembly for the drafting of a bill to amend the Labour Code and that the Committee's observations will be submitted to the National Assembly.* ***The Committee hopes that it will be able to note progress in the legislation in the near future and asks the Government in its next report to provide information on all developments in this regard.*** *It reminds the Government that it may seek technical assistance from the Office in the context of its reform of the Labour Code.*
	2009, 2011, 2013, 2014, 2015, 2016, 2017, 2019, 2020, 2021, 2022 (Observations) 2015, 2016, 2017, 2019, 2020, 2021, 2022 (Direct requests)	Determination of minimum services	**2009:** *The Committee points out that* ***for many years it has been asking the Government*** *to take steps to repeal or amend:* *- section 522, second paragraph, of the Labour Code respecting the* ***determination of minimum services*** *by the Ministry of Labour in case of disagreement between the parties in the event of a strike;*
	2009, 2011, 2013, 2014, 2015, 2016, 2017, 2019, 2020, 2021, 2022 (Observations) 2015, 2016, 2017, 2019, 2020, 2021, 2022 (Direct requests)	Right to strike of federations and confederations –	**2009:** *The Committee points out that* ***for many years it has been asking the Government*** *to take steps to repeal or amend:* *- section 505 of the Labour Code which implicitly* ***denies federations and confederations the right to strike****;*

	2009, 2011, 2013, 2014, 2015, 2016, 2017, 2019, 2020, 2021, 2022 (Observations) 2015, 2016, 2017, 2019, 2020, 2021, 2022 (Direct requests)	Sanctions	**2009**: *The Committee points out that **for many years it has been asking the Government** to take steps to repeal or amend:* *- Decree No. 105 of 7 June 1967 establishing the imposition of **prison sentences** for participation in unlawful work stoppages and strikes;*
	2019, 2020 (Observations) 2009, 2014, 2015, 2016, 2018 (Direct requests)	Strike voting – Strike ballot	**2008:** *The Committee notes that under the terms of section 529 of the Labour Code, strikes shall be decided upon by the **absolute majority of the workers in the enterprise or establishment affected by the dispute**, in which case the decision shall be binding for all the personnel. In contrast, if it is decided upon by less than the absolute majority, the union and the workers who are active in the dispute shall be under the obligation to respect the freedom to work of those not participating in the strike. In this respect, the Committee considers that if a member State deems it appropriate to establish in its legislation provisions which require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey, op. cit., paragraph 170). Furthermore, even in cases where the strike has been called by the absolute majority of the workers, the principle of the freedom to work of non-strikers and the right of employers and managerial staff to enter the premises of the enterprise or establishment has to be recognized. T**he Committee requests the Government to take the necessary measures to amend section 529 so that, when the decision is taken to call a strike, only the votes cast are taken into account and the principle of the freedom to work of non-strikers and the right of employers and managerial staff to enter the premises of the enterprise or establishment are recognized even in cases in which the strike has been decided upon by the absolute majority of workers.*** *The Committee notes that section 553(f) of the Labour Code provides that strikes shall be declared unlawful "where inspection shows that the striking workers do not constitute at least **51 per cent of the personnel of the enterprise or establishment**". The Committee observes that, on the one hand, this provision is in contradiction with section 529, second paragraph,*

			*which establishes the right to strike of unions representing at least 30 per cent of the workers in the enterprise or establishment and, on the other, places too great a restriction on the exercise of the right to strike. T**he Committee considers that section 553(f) should be amended or repealed.***
70. El Salvador	2008, 2009, 2011, 2013, 2014, 2015, 2016, 2018 (Direct requests) 2019, 2020 (Observations)	Essential services	**2008:** *The Committee notes that section 553(a) of the Labour Code provides that strikes shall be declared illegal when they are called in an essential service and that section 515 (respecting compulsory arbitration) indicates that essential services are considered to be those the interruption of which would endanger or threaten to endanger the life, personal safety or health or the normal conditions of existence of the whole or part of the population. The Committee, however, observes that there is no reference in the Labour Code indicating which specific services are considered essential.* ***The Committee requests the Government to indicate the services that are considered essential, who determines such services and what are considered to be "normal conditions of existence".***
	2008, 2009, 2011, 2013, 2014, 2015, 2016, 2018 (Direct requests) 2019, 2020 (Observations)	Minimum Service – Definition of minimum service	**2008:** *The Committee notes that section 532 of the Labour Code provides that within seven days of the commencement of a strike, the Director-General of Labour, at the request of one of the parties, "and after notification of the union that has called the strike", shall determine the number, category and names of the workers who shall remain in the enterprise for the performance of work the suspension of which may seriously prejudice or render impossible the normal recommencement of work or affect the security or conservation of the enterprises or establishments. In this respect, the Committee considers that, since* ***minimum services*** *restrict one of the essential means of pressure available to workers to defend their economic and social interests, their organizations should be able, if they so wish, to* ***participate in defining such a service****, along with employers and the public authorities (see General Survey, op. cit, paragraph 161). In this respect, the Committee requests the Government to indicate: (1) whether the notification of the union which called the strike is for the purpose of its participation in the determination of minimum services; and (2) whether the administrative decision determining minimum services is subject to judicial appeal through which a rapid ruling can be obtained.*
	2008, 2009, 2011, 2013, 2014, 2015, 2016, 2018 (Direct requests) 2019, 2020 (Observations)	Public servants	**2008:** *The Committee notes that article 221 of the Constitution prohibits strikes by public and municipal employees. In this respect, the Committee considers that the prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State (see General Survey, op. cit., paragraph 151).* ***The Committee requests the Government to take the necessary measures to amend article 221 of the Constitution so that***

			strikes are possible in the public sector, with the sole possible exception of public servants exercising authority in the name of the State.
71. Grenada	2000, 2002, 2003, 2004, 2005, 2006, 2007, 2009, 2012, 2014, 2015, 2017, 2018, 2019, 2020, 2021 (Direct Request)	Essential services - Compulsory arbitration	**2000:** *The Committee notes that sections 46(1) and 49(1) of the Labour Relations Act grant the Minister the power to refer a dispute to binding compulsory arbitration if he thinks fit and whether or not both parties to the dispute consent.* ***The Committee recalls that workers' organizations shall have the right to organize their activities and formulate their programmes in defence of their members' interests, in accordance with Articles 3 and 10 of the Convention and that binding arbitration should only be imposed in cases where both parties agree or in essential services in the strict sense of the term, in respect of public servants exercising authority in the name of the State or in an acute national crisis.*** *It further notes that section 46(2) of the Labour Relations Act* ***grants the Minister the power to refer to compulsory arbitration a dispute in essential services, including in respect of seaport and dock services, and sanitation services, which the Committee does not consider to be essential in the strict sense of the term****, that is to say, services, the interruption of which, would endanger the life, personal safety or health of the whole or part of the population. In this respect, the Committee draws the Government's attention to paragraph 160 of its 1994 General Survey wherein it states that, in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, the authorities could establish a system of minimum service in other services which are of public utility rather than impose an outright ban on strikes, which would be limited to essential services in the strict sense of the term.* **2006:** *The Committee notes the Government's statement that the Labour Relations (Amendments) Act was passed in July 2003. It notes with satisfaction that the Labour Relations (Amendments) Act amends sections 46(1) and 49(1) of the Labour Relations Act of 1999, which the Committee had previously commented upon, by eliminating the Minister's power to refer a dispute to binding compulsory arbitration without the consent of both parties – unless the dispute in question is in essential services.* *However, the Committee notes that section 45(3) of the Labour Relations Act, as amended, grants the Minister the power to refer to compulsory arbitration disputes in essential services. In this connection,* ***the Committee recalls that binding arbitration should only be imposed in***

			the following cases: where both parties agree; in respect of public servants exercising authority in the name of the State; in an acute national crisis; and in essential services in the strict sense of the term. *The Committee had previously noted that it does not consider seaport, dock and sanitation services to be essential in the strict sense of the term – that is to say, services, the interruption of which, would endanger the life, personal safety or health of the whole or part of the population. In these circumstances,* ***the Committee asks the Government to indicate in its next report which services lie within the scope of section 45(3) of the AcT.***
72. Guatemala	1989, 1991, 1993, 1996, 1998,1999, 2000, 2001, 2002, 2003, 2004, 2005, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 (Observations) 2021, 1996 (Direct request)	Strike voting - Compulsory arbitration - Sanctions	**2010:** *The Committee has* ***for several years been commenting on the following provisions****, which raise problems of consistency with the Convention:* *- Restrictions on the right of workers' organizations to organize their activities freely (under section 241 of the Labour Code, strikes are declared not by the majority of those casting votes, but by a* ***majority of the workers****); the possibility of imposing* ***compulsory arbitration*** *in the event of a dispute in the public transport sector and in services related to fuel, and the need to determine whether strikes for the purpose of inter-union solidarity are still prohibited (section 4(d), (e) and (g) of Decree No. 71-86, as amended by Legislative Decree No. 35-96 of 27 March 1996); labour****, civil and penal sanctions applicable to strikes involving public officials or workers in specific enterprises*** *(sections 390(2) and 430 of the Penal Code and Decree No. 71-86).*
73. Haiti	2011, 2012, 2014, 2017, 2018, 2019, 2020, 2021 (Observations)	Right to strike of federations and confederations – vote majority – public authority interference – notice period – compulsory arbitration	**2011:** *The Committee recalls that it has been* ***referring for a number of years*** *to the need to reform various sections of the Labour Code in order to bring them into conformity with the Convention. The Committee's comments refer to the following restrictions on the right to strike;* *- the ban on* ***strikes being called by federations and confederations*** *(section 537 of the Labour Code). The Committee however notes the Government's indication that in practice the CUTH, the General Federation of Workers (CGT) and the CTH have repeatedly called for collective suspension of work;* *- the requirement of a* ***two-thirds majority of the votes*** *of the total membership of the trade union organization in order to call a strike (sections 495 and 563 of the Labour Code);* *- the power of the* ***Ministry of Labour and Social Security to end disputes*** *in oil production, refining, transport and distribution services (section 555(2) of the Labour Code);*

			- the need for ***Government authorization or a six-month period of notice*** *for any suspension or stoppage of work in public services that do not depend directly or indirectly on the State (section 558 of the Labour Code);* *- the submission to* ***compulsory arbitration****, without the possibility of calling a strike for as long as the arbitration award is in force (two years), of collective disputes in public services that are not essential in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population (sections 554(2) and (7), 820 and 826 of the Labour Code).* ***The Committee recalls that in its previous observations it noted the drawing up of a draft Act to reform the Labour Code, which incorporated various amendments requested by the Committee.***
74. Honduras	1989, 1991, 1992, 1993, 1995, 1996, 1998, 1999, 2000, 2001, 2002, 2003, 2005, 2007, 2009, 2011, 2012, 2014, 2017, 2018, 2019, 2020, 2021, 2023 (Observations)	Vote to call a strike- Essential services - Compulsory arbitration - Right to strike of federations and confederations	**2011**: *The Committee recalls that it has been referring for a number of years to the need to reform various sections of the Labour Code in order to bring them into conformity with the Convention. The Committee's comments refer to the following restrictions on the right to strike:* ***- the ban on strikes being called by federations and confederation****s (section 537 of the Labour Code). The Committee however notes the Government's indication that in practice the CUTH, the General Federation of Workers (CGT) and the CTH have repeatedly called for collective suspension of work;* ***- the requirement of a two-thirds majority of the votes of the total membership of the trade union organization in order to call a strike*** *(sections 495 and 563 of the Labour Code);* ***- the power of the Ministry of Labour and Social Security to end disputes in oil production, refining, transport and distribution services*** *(section 555(2) of the Labour Code);* ***- the need for Government authorization or a six-month period of notice for any suspension or stoppage of work in public services that do not depend directly or indirectly on the State*** *(section 558 of the Labour Code);* ***- the submission to compulsory arbitration, without the possibility of calling a strike for as long as the arbitration award is in force*** *(two years),* ***of collective disputes in public services that are not essential in the strict sense of the term,*** *that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population (sections 554(2) and (7), 820 and 826 of the Labour Code). The Committee recalls that in its previous observations it noted the drawing up of a draft Act to reform the Labour Code, which incorporated various amendments requested by the Committee.* **2012***: The Committee notes that, in referring to these issues, the Government states that there have been no proposals to amend the legislative provisions in question. The Committee*

			observes that the Government no longer refers to the draft reform of the Labour Code that included several amendments requested by the Committee.
	2018, 2019, 2020, 2021 (Observations)	Sanctions	**2017:** *Noting that some of the acts specified in section 335 of the Penal Code are broadly defined,* ***the Committee requests the Government to take the necessary measures to ensure that the application of this section by the competent authorities does not restrict the right of trade unions to protest and strike in a peaceful manner. The Committee requests the Government to provide any information on the possible impact of section 335 of the Penal Code on trade union activities****.*
75. Jamaica	1990, 1991, 1994, 1995, 1996, 1997, 1998, 2000, 2001, 2002, 2003 (**partial implementation**), 2005, 2007, 2008, 2009, 2011, 2014 (Observations)	Compulsory arbitration - Essential services	**1990:** *The Committee recalls that, f****or several years, it has requested the Government*** *to* ***amend sections 9 and 10, paragraphs 1, 2, 4, 5 and 8, of the Labour Relations and Industrial Disputes Act No. 14 of 1975, as amended in 1978 (sections 11A and 15 (iii)), which empower the Minister to submit an industrial dispute to compulsory arbitration and to terminate any strike in the so-called essential services*** *(which are too broadly defined)* ***and in other services if the strike is liable seriously to jeopardise the interests of the nation****. Since, in the Committee's opinion, the right to strike is one of the essential means which should be available to workers and their organisations to promote and defend their economic and social interests, the Minister of Labour should only be able to have recourse to the courts in order to end a strike in the following circumstances: (1) in the* ***e****vent of strikes in essential services in the strict sense of the term, namely those in which the strike would endanger the life, personal safety or health of the whole or part of the population; or (2) in the event of an acute national crisis (see paragraphs 214 and 215 of the 1983 General Survey on Freedom of Association and Collective Bargaining).* *Therefore,* ***the Committee urges once again the Government to indicate in its next report the measures taken to amend its legislation in order to bring it into conformity with the Convention, in view of the fact that these matters have been the subject of its comments for many years.*** *The Committee hopes that the Government will make every effort to take the necessary action in the very near future.*
	2015, 2016, 2017, 2018, 2021, 2022 (Direct Requests)	Picketing - Limitation on strike action - Compulsory arbitration	**2015:** *The Committee notes the ITUC's observations that: (i****) according to section 33(1) of the Trade Union Act (TUA), picketing is unlawful if it is attended in such numbers or otherwise in such manner as to be calculated to intimidate any person in a house or place, to obstruct the approach thereto or egress therefrom or to lead to a breach of peace; (ii) in line with section 33(2) of the TUA, picketing is prohibited for sympathy or solidarity reasons (it is unlawful for a person to participate in a picket unless the person is the employer or a member of the company with which the industrial dispute is contemplated, a current or***

			former (up to 12 months before the picketing) worker of the company or an officer of a registered trade union (maximum eight officers can be present); and (iii) sections 32 and 33 of the TUA impose excessive civil and penal sanctions for non-authorized picketing*. In this regard, the Committee recalls that while workers should be able to participate in sympathy picketing and sympathy strikes if the initial strike they are supporting is itself lawful, the exercise of the right to strike should respect the freedom to work of non-strikers as well as the right of the management to enter the premises of the enterprise, and therefore legal provisions prohibiting picketing from disturbing public order, creating violence and threatening, intimidating or coercing non-strikers are legitimate (sections 32 and 33(1) of the TUA). The Committee further notes that participation in a peaceful and non-threatening solidarity strike is a legitimate measure and should not be subject to any penalties (section 33(2) of the TUA.* ***The Committee requests the Government to take the necessary measures to ensure that peaceful picketing in the context of sympathy and solidarity strikes is allowed and is not subject to sanctions.*** *The Committee notes the ITUC's observations that in accordance with sections 10 and 32 of the Labour Relations and Industrial Disputes Act (LRIDA),* ***the authorities can unilaterally prohibit, limit, suspend or cease strike action.*** *The Committee had previously referred to the extensive power of the Minister to refer an industrial dispute to arbitration (sections 9, 10 and 11(A) of the LRIDA) and had noted the Government's indication that it was considering the Committee's request to amend these sections.* ***The Committee notes that in its report the Government indicates that the legislation on the issue currently remains unchanged.***
76. Mexico	2006, 2008, 2010, 2014, 2015, 2016, 2017, 2018, 2021, 2023 (Observations) 2015, 2016, 2017, 2018, 2021 (Direct requests)	Right to strike of state employees - Requisitioning	**2010:** *The Committee recalls that* ***for many years it has been making comments and requesting the Government to amend the legislation*** *in relation to the following issues:* *(i)* ***State employees*** *– including workers in the banking sector – have the right to strike only if there is a general and systematic violation of their rights (section 94, Title four, of the Federal Act on State Employees, and section 5 of the Act to regulate article 123(XIIIbis)(B) of the Constitution).* *(ii) Section 121 of the Credit Institutions Act. The Committee recalls that workers' organizations should be able to take part, should they so wish, in* ***determining the minimum service*** *to be maintained in the event of a strike, along with employers and the public authorities (see General Survey, op. cit., paragraph 161).*

			(iii) Section 99(II) of the Federal Act on State Employees lays down the requirement that to call a strike ***two-thirds of the workers*** *in the public body concerned must be in favour. The Committee recalls in this respect that, with regard to workers who do not exercise authority in the name of the State, the ballot method, the quorum and the majority required should not be such that exercise of the right to strike becomes very difficult, or even impossible in practice (see General Survey, op. cit., paragraph 170).* *(iv) Several laws on the public service (the Act to regulate railways, the Act respecting national vehicle registration, the Act on general channels of communication and the Rules governing the Ministry of Communications and Transport) contain provisions for the* ***requisitioning of staff where the national economy could be affected****. The Committee recalls that the forced mobilization of workers on strike would be justified only for the purpose of ensuring the operation of essential services in the strict sense of the term (see the General Survey, op. cit., paragraph 163) and that provisions which do not relate to essential services in the strict sense of the term (such as the Act to regulate the railways, the Act on general channels of communication and the Rules governing the Ministry of Communications and Transport) should be amended.* *The Committee notes the Government's indication in relation to these matters that legislative action lies within the competence of the National Legislative Authority and that no initiatives have been submitted during the present period in relation to the amendments that are sought.* ***In this regard, taking into account the planned reform of the Federal Act on State Employees, the Committee requests the Government to examine, together with the social partners, the possibility of making amendments as indicated above. The Committee recalls that in this process it is possible to have recourse to the technical assistance of the Office, if so desired.***
77. Nicaragua	1992, 1993, 1994, 1995, 1996, 1998 (**comments partly implemented**), 2000, 2002, 2004 (Observations)	Restrictions to right to strike - Compulsory arbitration	**1992:** *(...) the Committee reminds the Government of its observations concerning certain provisions of or omissions from the legislation that are not in accordance with the Convention. The Committee had referred in particular to the need to:* ***lift the excessive limitations on the exercise of the right to strike, requiring a majority of 60 per cent for calling a strike, prohibiting strikes in rural occupations when the produce may be damaged if it is not immediately available, and enabling the authorities to end a strike that has lasted 30 days through compulsory arbitration if no settlement has been reached after the date authorised for the strike*** *(sections 225, 228 and 314 of the Code).* The Committee asks the Government to send it a copy of the draft Code in question. ***Since the questions raised are of great importance and it has been pressing them for many years, the Committee expresses the firm***

			hope that at its next session it will be able to take note of tangible results with regard to the reconciliation of the legislation with the Convention and that the recommendations made by the Commission of Inquiry in its report (paragraphs 543 and 544) will be embodied in the future Labour Code*.*
	1998, 2000, 2002, 2004 (**partly implemented**), 2006, 2008, 2009, 20010, 2014, 2017, 2021, 2022, 2023 (Observations)	Right to strike of federations and confederations - Compulsory arbitration	**1998:** *The Committee also notes with interest that the Government indicates in its report that federations and confederations may exercise the right to strike in accordance with the law. Nevertheless, the Committee notes that section 53 of the new Regulation on Trade Union Associations (Decree No. 55-97) provides that "in industrial disputes,* ***federations and confederations shall limit their intervention to providing advice and moral and economic support required by striking workers****". Furthermore, the Committee observes that in accordance with sections 389 and 390 of the new Labour Code,* ***a dispute may be submitted to compulsory arbitration when 30 days have elapsed from the calling of the strike.*** *On this point, the Committee, in particular, considers that such restrictions could be limited to the provision laid down in section 247 of the new Labour Code (the exercise of the right to strike in public services or services that are of public interest may not be extended to situations which endanger the life and personal safety of the whole or part of the population) or in a situation of acute national crisis. (...) The Committee hopes that the Government will continue to make every effort to bring the provisions in sections 389 and 390 of the Labour Code of 1996 and sections 21, 32 and 53 of the Regulation (Decree No. 55-97) into conformity with the requirements of the Convention and requests the Government to inform it in its next reports of any progress made in this respect.* **2009:** ***The Committee recalls that it has been referring for a number of years to the need for measures to be taken to amend sections 389 and 390 of the Labour Code, which provide for compulsory arbitration of a dispute where 30 days have elapsed since the calling of a strike. The Committee notes the Government's reply, in which it requests clarification regarding the legal basis of the Committee's claims that these provisions need to be amended.***
78. Panama	1991, 1992, 1993, 1998, 2000, 2001, 2002, 2004, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2015, 2018, 2022 (Observations)	Compulsory arbitration - Sanctions	**1991:** *The Committee notes that the Legislative Assembly has adopted Act No. 13 of 11 October 1990, which sets out restrictions on the right to strike. The above Act provides for* ***collective disputes to be submitted to compulsory arbitration in all enterprises that provide public services and in other enterprises when the continuation of the strike could result in serious economic problems for the enterprise****. The Committee therefore requests the*

	1993, 1995, 1996, 1997, (Direct requests)		*Government to take measures to amend the above-mentioned provisions in order to take full account of these principles.* *Finally, the Committee notes that Act No. 25 of 14 December 1990, with retroactive effect as of 4 December 1990 "**authorises the Executive and directors of independent and semi-independent institutions, state and municipal enterprises and other public state bodies to declare void the appointments of: persons in the public services who have participated or are participating in the organisation, calling or execution of activities that threaten democracy and the constitutional order, whether or not they hold office in trade unions and associations of public servants; their trade union or sectoral delegates and representatives, the officers of the associations of public servants, irrespective of the existence of trade union immunity; and irrespective of whether they are governed by special laws"**. The Committee observes that appeals may be made only to administrative and not to judicial bodies against the above declarations that appointments are void. **The Committee considers that Act No. 25 greatly prejudices the exercise of the right of associations of public employees to organise their activities, including through strikes, that it is intended to legitimise the dismissal of a large number of such employees, and it requests the Government to take measures to repeal it.***
	2000, 2001, 2002, 2004, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2015, 2018, 2022 (Observations) 1996, 1997, 1998, (Direct Request)	Essential services - Compulsory arbitration in public services	**2000:** *The Committee recalls that its previous comments related to the following provisions: the **obligation to provide minimum services with 50 per cent of the personnel in establishments which provide essential public services, which go beyond essential services in the strict sense of the term** and which include transport, and the penalty of the summary dismissal of public servants for calling or participating in strikes which are prohibited or declared illegal, or failing to comply with the requirement respecting minimum service in the event of a strike (articles 152(14) and 185 of Act No. 9 of 1994); (..).* **1998:** *As regards the possibility of workers unilaterally submitting collective disputes to arbitration (section 452(2) of the Labour Code), whose findings shall be legally binding on the parties (section 470 of the Labour Code), **the Committee recalls that arbitration imposed at the request of one party is generally contrary to the principle of the voluntary negotiation of collective agreements and thus, the autonomy of bargaining partners.** Nevertheless, an exception could be made in the cases in which provisions exist, for instance, allowing workers' organizations to initiate such a procedure for the conclusion of a first collective agreement*

			(see General Survey on freedom of association and collective bargaining, 1994, paragraph 257). ***In this respect, the Committee requests the Government to take the necessary measures to amend section 452(2) of the Labour Code to reflect the above-noted principle.***
	1991, 1992, 1993, 1995, 1996 **(partly implemented),** 2002, 2004, 2006, 2007, 2008, 2009, 2010, 2011, 2012 (Observations)	Right of public servants to organise - Strike	**1991:** *The Committee recalls that since 1973 its comments have addressed the following points: - the* ***exclusion of public servants from the scope of the Labour Code and consequently from the right to organise and bargain collectively*** *(section 2(2) of the Labour Code) […]* **2006:** *The Government indicated previously that the Constitution allows special restrictions in cases determined by law.* ***The Committee recalls that prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State*** *(see General Survey, op. cit., paragraph 158).*

	2002, 2004, 2006, 2007, 2008, 2009, 2010 (**implemented in 2011**) (Observations) 1997 (Direct Request)	Restrictions to right to strike	**1997:** *In its observations, CLAT indicates that Executive Legislative Decrees Nos. 1 and 2 of 1996 (which accelerate the procedure for the establishment of enterprises in export processing zones) contain* ***provisions restricting the exercise of the right to strike by establishing that only after a period of 20 working days, once the conciliation and arbitration procedure has been exhausted*** *(sections 23, 25 and 27),* ***may workers in free zones declare strikes****. Similarly, they indicate that in accordance with section 30 of the same Decrees, stopping work without fulfilling the above provisions gives an employer the right to terminate the employment contracts of those responsible.* *The Committee notes the Government's comments, in particular that the Decrees in question were amended by Legislative Decree No. 3 of 7 January 1997, the provisions of which (sections 12-15) provide only for a preliminary conciliation procedure lasting for 36 working days which must be completed before a strike can be declared legally. The Committee observes with interest that Legislative Decree No. 3 does not refer to arbitration. However, it notes that under section 15 of the same Decree a work stoppage without the fulfilment of the above-mentioned formalities gives an employer the right to request, from the labour administration authorities, the termination of the employment contracts of the worker or workers responsible for the unlawful stoppage, or the imposition by the administrative authorities, at the employer's request, of a fine of 50 to 500 balboas. In this respect,* ***the Committee requests the Government to indicate whether workers have the possibility to appeal against such decisions****.* *The Committee observes that section 92 of Act No. 19 of 11 June 1997 establishing the Panama Canal Authority prohibits strikes, go-slows and any other unjustified work stoppage so as to ensure that such action does not affect the international public service for which the Canal was created. In this respect, the Committee reminds the Government that* ***if the right to strike is subject to restrictions or a prohibition, workers who are thus deprived of an essential means of defending their socio-economic and occupational interests should be afforded impartial and speedy compensatory guarantees, for example conciliation and mediation procedures leading, in the event of deadlock, to arbitration machinery seen to be reliable by the parties concerned*** *(see op. cit., paragraph 164). The Committee requests the Government to adopt measures in accordance with the above.*

	1998, 2000, 2001, 2002, 2004, 2007, 2008, 2009, 2010, 2011, 2012, 2015, 2018, 2022 (Observations)	Lockouts, Legislation closure of the enterprise in the event of a strike	**1999**: *B. Case No. 1931. As regards lockouts in enterprises, establishments and businesses in the event of a strike, as provided in sections 493(1) and 497 of the Labour Code (Case No. 1931), the Committee considers that in the case of a legal strike such provisions go beyond the protection of the right to strike and may restrict the freedom to work of non-striking workers, ignoring the basic needs of the enterprise (maintenance of premises, accident prevention and the right of entrepreneurs and managers to enter the premises and to exercise their activities). In such conditions, t**he Committee of Experts, in the same way as the Committee on Freedom of Association, requests the Government to take measures to repeal the above provisions set out in sections 493(1) and 497 of the Labour Code.**
	2002, 2004, 2006, 2007, 2008, 2010, 2011, 2012, 2015, 2018, 2022 (Observations)	Prohibition of federations and confederations from calling strikes - Political strikes	**2002**: *The Government states that it is the trade unions which maintain relations with workers (whether or not they are unionized) at the enterprise level, and that if federations and confederations can call strikes, this would lead to trade union cannibalism and infighting between organizations; with regard to strikes protesting against the Government's economic and social policies, it states that it is unjustified to submit enterprises to the effects of a strike of this type, since such policies are outside the control of the employer. T**he Committee emphasizes that federations and confederations should enjoy the right to strike. The Committee recalls that organizations responsible for defending workers' socio-economic and occupational interests should, in principle, be able to use strike action to support their position to seek solutions to problems posed by major social and economic policy trends** which have a direct impact on their members and on workers in general, in particular as regards employment, social protection and the standard of living (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 165). T**he Committee requests the Government to take measures to amend the legislation with a view to bringing it into line with the above principles.**
79. Paraguay	1991, 1992, 1993, 1994, 1995 (**partially implemented**), 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2008,	Essential services- Strike ballot - Authority to declare a strike unlawful -	**1993:** *The Committee recalls that its previous comments referred to the following points:* *- t**he prohibition of strikes in public services which are not essential in the strict sense of the term (section 358(c) and section 360 of the Labour Code);*** *- t**he requirement of three-quarters of the members to call a strike (section 353 of the Labour Code);***

	2010, 2012, 2015, 2022 (Observations) 2000, 2001, 1999, 1998, 1997, 1996, 1995, 1994 (Direct request)		**2008:** *The Committee recalls that **for many years**, it has been making comments on the following provisions of the Industrial Relations Act:* *- The power of the labour administration to **determine minimum services**, in the event of disagreement, when a strike is declared in essential public services (section 82)* *- Section 73(b) which provides that the decision to call a strike has to be adopted in the form expressly set out in the statutes and must in any event represent the will of the **majority of the workers concerned*** *- The need to ensure that **authority to declare a strike unlawful lies not with the Government** but with an independent body that has the trust of the parties.*
	1989, 1991, 1992, 1993, 1994, 1995, 1996, 1997, Observations	Compulsory arbitration – Dismissal of workers	**1993**: *The Committee recalls that its previous comments referred to the following points: the sub**mission of collective disputes to compulsory arbitration** (section 284 of the Code of Labour Procedure), a**nd the dismissal of workers who have ceased work during the procedure** (section 291 of the Code of Labour Procedure); and*
80. Peru	1994, 1995, 1996, 1997, 1998, 2000, 2002 (**some comments implemented in 2004**) (Observations) 1998 (Direct request)	Compulsory arbitration - Essential services - Majority to call a strike - Information of those calling for a strike	**1994:** *While noting that some amendments to the Industrial Relations Act of 26 June 1992 and its Regulations should enable the Convention to be better applied, the Committee points out that the following provisions may still give rise to difficulties in applying the Convention:* *- excessive restrictions on the right to strike (in particular, sections 73(a) and (b), 67 and 83(g) and (j));*
	2006, 2008, 2010, 2012, 2018 (Observations)	Minimum services - majority to call for a strike - replacement of striking workers	**2006:** ***In its previous comments**, the Committee raised the following matters:* *– the **power of the labour administration to determine minimum services**, in the event of disagreement, when a strike is declared in essential public services (section 82 of the Industrial Relations Act of 1992). The Committee notes that the recently drafted General Labour Bill, No. 67/2006-CR, repeals the Industrial Relations Act and provides, in section 406, that in the event of disagreement the workers' representative may take the matter within five days to the tripartite body set up for the purpose by the National Labour Council, for settlement within five days;* *– section 73(b) of the Industrial Relations Act of 1992 which provides that the **decision to call a strike has to be adopted in the form expressly set out in the statutes and must in any***

			event represent the will of the majority of the workers concerned. *The Committee notes that, according to the Government, Supreme Decree No. 011-92-TR (regulating section 73(b)) has been replaced by section 62 of Supreme Decree No. 013-2006-TR to provide that "the trade union organization may declare a strike in the form expressly set out in its statutes, provided that the decision to strike is adopted by a majority of its voting members". The Committee nonetheless observes that section 62 of Supreme Decree No. 013-2006-TR provides that "in order for the trade union to call a strike, at least two-thirds of the total membership must be present at the time of voting". The Committee reminds the Government in this connection that a quorum of two-thirds of the members may be difficult to reach when a union has a large membership or covers a large geographical area and that if a member State sees fit to establish by law that strike action must be put to the vote of the workers, it must make sure that only the votes cast are counted and that the requisite quorum or majority is set at a reasonable level. The Committee understands that in any event the recently drafted General Labour Bill is to repeal the Industrial Relations Act and its regulatory decrees (third supplementary provision of the Bill).* ***In these circumstances, the Committee expresses the hope that the law adopted will conform fully to the Convention and requests the Government to provide information on the progress of the abovementioned Bill in its next report.*** **2010:** *The Committee referred in its previous comment to the creation, by means of Ministerial Decision No. 0080-2007-ED of 23 February 2007, of the national register of supply teachers to replace teachers on strike and asked the Government to take the necessary steps to overturn the aforementioned Ministerial Decision, taking account of the fact that strikers should only be replaced in the event of a strike in an essential service in the strict sense in which strikes are prohibited by law and if the strike results in an acute national crisis. The Committee notes the Government's indication that: (i) the abovementioned register constitutes a human resources management instrument which registers all professionals who are suitable for recruitment in the public education system, in cases of the continued absence of teachers of classes in basic regular education and does not have the purpose of replacing teachers who exercise their right to strike; and (ii) the aforementioned legislation was enacted in strict observance of the principle of legality and therefore does not conflict with the right to strike established in the national legislation and ratified international Conventions.* ***While observing that the preamble to the abovementioned Ministerial Decision refers to the hours lost owing to the absence of teachers for strikes and stoppages, the Committee requests the Government to***

			take steps to make it clear in the Ministerial Decision that the replacement of strikers is only possible in the cases referred to above.
	2012, 2015, 2018, 2022 (Observations)	Determining the unlawfulness of strikes	*The Committee **recalls**:* *-The need to amend section 73(b) of the Industrial Relations Act, which provides that the **decision to call a strike has to be adopted in the form expressly set out in the statutes and must in any event represent the will of the majority of the workers concerned**. The Committee recalls in this connection the principle that if the legislation provides that a vote by workers is required before a strike can be held, it should be ensured that only the votes casted are counted and that the required quorum or majority is fixed at a reasonable level.* *-The need to ensure that **authority to declare a strike unlawful lies not with the Government but with an independent body that has the trust of the parties** (a point made several times by the Committee on Freedom of Association). The Committee observes in this connection that the CCL believes that responsibility for declaring a strike unlawful must lie with the Government, since participation by an independent body implies a high degree of subjectivity, which would be a hindrance to any feasible settlement and to observance of the social rights involved. (...)* *The Committee hopes that in the process to finalize the draft General Labour Bill to amend the Industrial Relations Act, the representative workers' and employers' organizations will continue to be consulted. The Committee also trusts that its comments will be taken into account in the text that is finally adopted and reminds the Government that technical assistance from the Office is available.*
81. Saint Kitts and Nevis	NO COMMENTS ON THE RIGHT TO STRIKE		
82. Saint Lucia	NO COMMENTS ON THE RIGHT TO STRIKE (Report due since 2012)		
83. Saint Vincent and the Grenadines	2022 (Direct request)	Essential services	**2022:** *The Committee notes that pursuant to section 6 of the LRB, an **employee engaged in essential services** shall not withdraw his or her services except as provided under the Essential Services Act. The Committee requests the Government to provide a copy of this Act.*
84. Suriname	NO COMMENTS ON THE RIGHT TO STRIKE		
85. Trinidad and Tobago	1989, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 2000, 2002, 2003,	Majority required to call a strike - Essential services -	**1989***: For several years now, the Committee has been requesting the Government to take steps to:* *– amend section 59(4)(a) of the Industrial Relations Act, as amended, so as to enable a **simple majority of the voters in a bargaining unit (excluding those workers not taking part***

	2004, 2005, 2006, 2007, 2008, 2010, 2012, 2015, 2016, 2018, 2019, 2022 (Observations)	compulsory arbitration	***in the vote) to call a strike**. The Committee cannot but recall that the requirement that the exercise of the right to strike be subjected to prior approval by a certain percentage of workers is not in itself incompatible with the Convention; on the other hand, legislative provisions which require a vote by workers before a strike can be held should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey on freedom of association and collective bargaining, 1994, paragraph 170);* *– amend sections 61 and 65 of the same Act to ensure that **any resort to the Court by the Ministry of Labour or by one party only to end a strike is limited to cases of strikes in essential services in the strict sense of the term**, that is to say those in which the strike would endanger the life, personal safety or health of the whole or part of the population, or in cases of acute national crisis or in relation to public servants exercising authority in the name of the State;* *– amend section 67 of the Act to ensure that the **prohibition of industrial action in essential services is limited to cases of strikes in essential services in the strict sense of the term** (in particular the Committee had noted that the inclusion in schedule 2 of a public school bus service in the list of essential services could not be considered to be essential in the strict sense of the term); and* *– repeal the **restrictions under section 69 prohibiting the teaching service and employees of the Central Bank from taking industrial action, under penalty of 18 months' imprisonment,** in the case that such restrictions were still in force. The Committee notes the adoption in 1987 of an amendment to section 61 of the Industrial Relations Act under which one party may now request the Minister, when a period of three months of continuing industrial action has elapsed, to refer an unresolved dispute to the Court for final determination. The Committee must point out that **binding arbitration procedures, whether or not preceded by conciliation**, must be designed to facilitate bargaining between the two sides, which means that it should be for the two parties to decide whether or not they wish to refer any matter in dispute to binding arbitration. Moreover, since this new provision entails the prohibition of recourse to strikes, the Committee insists that such **prohibitions of strikes** should be confined to: (a) public servants acting in their capacity as agents of the public authority; (b) services whose interruption would endanger the life, personal safety or health of the whole or part of the population; or (c) situations of acute national crisis. (...) The Committee therefore requests the Government to indicate:* *- the exact terms of reference of the review committee;*

			- whether a timetable and a deadline have been set for the submission of its report; and *- whether employers' and workers' organisations will have an opportunity to submit representations to that committee.* ***The Committee strongly hopes this latest initiative will be followed in the near future by implementing legislation along the lines it has been suggesting for many years and urges the Government to indicate in its next report the measures taken to bring its legislation into conformity with the Convention.*** **2000:** ***The Committee notes from the Government's latest report that the Tripartite Committee established to review the Industrial Relations Act has reviewed these sections and has agreed that these provisions are in keeping with the cultural and legislative environment of the country and are, therefore, in no way objectionable to the parties in the collective*** *bargaining process. The Tripartite Committee does not view these provisions as a deterrent to the Government's conformity with Convention No. 87.*
86. Uruguay	2012, 2015, 2018 (**implemented in 2022**) (Observations)	Strike pickets and workplace occupation	**2012**: *The Committee also recalls that on numerous occasions it has emphasized that "in so far as the strike remains peaceful,* ***strike pickets and workplace occupations should be allowed****. Restrictions on strike pickets and workplace occupations can be accepted only where the action ceases to be peaceful. It is, however, necessary in all cases to guarantee respect for the freedom to work of non-striking workers and the right of the management to enter the premises" (see General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2012, paragraph 149). In these circumstances, t****he Committee expresses the firm hope that, in the context of the tripartite dialogue under way, the necessary measures will be taken to ensure that****, taking into account the comments of the Committee on Freedom of Association and this Committee,* ***observance of this principle is fully guaranteed in law and in practice and in consultation with the most representative organizations of workers and employers.*** *The Committee hopes that during the ongoing consultation process, the decisions of the national tribunals will be taken into consideration.*
87. Venezuela	2006, 2007, 2008, 2009, 2010, 2012, 2014, 2015, 2016, 2017, 2018, 2020, 2021, 2022 (Observations)	Compulsory arbitration	**2009:** *The Committee recalls that the following issues:* *- the need to amend section 152 of the Regulations of the Basic Labour Act, dated 25 April 2006, which provide for the possibility of* ***compulsory arbitration*** *in non-essential public services;*

	2014, 2015, 2016, 2017, 2020 (Observations)	Essential services	**2014:** *The Committee also recalls* ***its previous comments*** *on the* ***need for either a judicial or an independent authority, and not the Peoples' Ministry of Labour, to determine the areas or activities which may not be subject to stoppage during a strike*** *on the grounds that they prejudice the production of essential goods or services which would cause damage to the population (section 484 of the LOTTT), and that the system for the appointment of the members of the arbitration board in the event of a strike in essential services should guarantee the confidence of the parties in the system as, under the current legislation, if the parties are not in agreement, the members of the arbitration board are selected by the labour inspector (section 494). The Committee requests the Government to report any developments in this regard.*
	2014, 2015 (Observations)	Sanctions	**2014:** *The Committee notes that UNETE and ASI once again denounce the adoption of l****aws and regulations which prohibit the right to strike, penalizing its exercise with heavy prison sentences****.* *The Committee notes with concern that sections 68 and 140 of the Act for defence of persons provide in very broad terms for prison sentences for acts or omissions which directly or indirectly obstruct the production, manufacture, import, storage, transport, distribution or marketing of goods. The Committee also notes with* ***concern*** *that section 55 of the Act on fair costs and prices establishes prison sentences for similar acts.* *Th****e Committee recalls that the prohibition of the right to strike in the case of public servants is only acceptable in relation to public servants exercising authority in the name of the State, in essential services*** *(those the interruption of which would endanger the life, personal safety or health of the whole or part of the population)* ***and in cases of acute national or local emergency*** *(situations in which the normal conditions of society no longer apply, such as serious conflicts, rebellion, and natural, sanitary or humanitarian emergencies).* ***The Committee also recalls that no penal sanctions should be imposed on workers engaged in peaceful strike action and, accordingly, under no such circumstances should sentences of imprisonment or fines be imposed****. Such penalties are only acceptable if, during the strike, acts of violence are committed against persons or property, or other serious offences set out in the criminal legislation (for example, in the event of the failure to assist a person in danger, or deliberate injury or damage to persons or property)* ***The Committee therefore requests the Government to take the necessary measures to amend sections 68 and 140 of the Act for the defence of persons in accessing goods and services***

			and section 55 of the Act on fair costs and prices in accordance with these principles. The Committee requests the Government to report any developments in this regard. ***2015: <u>the Government states that the purpose of these laws, and the offences that they address in protecting the people, is to guarantee economic consolidation of the socialist model; in this way it has been possible to tackle the economic warfare and begin to stabilize the country's economic situation. The Government states that such laws do not restrict the rights of the workers and that the right to strike is established in the Constitution and in the LOTTT (which also establishes the right of trade union immunity); what they do prohibit in general is boycotting that seeks to terminate the productive process of workplaces (which is not the case with strikes).</u>***

COUNTRY	YEARS	ISSUE	CEACR COMMENTS
		ASIA	
88. Australia	1998, 2000, 2002, 2003, 2006, 2007, 2009, 2011 (Observations)	Secondary boycott	**1998:** *The Committee notes that section 45D, as amended (section 45D, 45DA, 45DB),* ***continues to render unlawful a wide range of boycott activity directed against persons who are not the employers of the boycotters.*** *Breach of this provision may be sanctioned by one or more of the following: (i) a pecuniary penalty -- for a violation of sections 45D or 45DB, up to a maximum of A$750,000 for a trade union and A$500,000 for a person; for a violation of 45DA, up to a maximum of A$10,000,000 for a trade union and A$500,000 for a person (section 76); (ii) injunctions (section 80); and (iii) damages, with no upper limit as to quantum (section 82).* ***The Committee notes with regret that the recent amendments to the Act maintain the boycott prohibitions and render unlawful a wide range of sympathy action.*** *The Committee again recalls that a general prohibition on sympathy strikes could lead to abuse and that workers should be able to take such action, provided the initial strike they are supporting is lawful. With respect to the elevated penalties that may be imposed under the Act, the Committee recalls that (a) sanctions should only be imposed where there are violations of strike prohibitions or restrictions that are in conformity with the principles of freedom of association; and (b) sanctions should not be disproportionate to the seriousness of the violation (see General Survey, op. cit., paragraphs 177-178).* ***The Committee expresses the firm hope that the Government will amend the legislation accordingly, and will continue to provide information as to the practical application of the boycott provisions of the Act.*** ***2013:*** *Observing finally that there have been no changes to the provisions of the Competition and Consumer Act prohibiting secondary boycotts or to sections 30J and 30K of the Crimes Act, the Committee once* ***again requests the Government,*** *in light of its comments above and in consultation with the social partners, to review the above-mentioned provisions so as to ensure that they are not applied in a manner contrary to the right of workers' organizations to organize their activities and carry out their programmes in full freedom. It further requests the Government to continue providing detailed information on the application of these provisions in practice.*

	1998, 2000, 2002, 2003, 2006, 2007, 2009, 2011, 2019 (Observations)	Banning strikes	**1998:** *The Committee **recalls its previous comments,** requesting the Government to keep it informed of any progress made in repealing the provisions of the Act **banning strikes in services where the Governor-General has proclaimed the existence of a serious industrial dispute "prejudicing or threatening trade or commerce with other countries or among the States" (section 30J),** and prohibiting boycotts resulting in the obstruction or hindrance of the performance of services by the Australian Government or the transport of goods or persons in international trade (section 30K). The Government states that it is considering the Committee's request, but that no further measures have been taken in respect to these provisions at this stage. It also states that no action has been taken under the relevant provisions for 40 years. The Committee takes due note of this information, and requests the Government to repeal these provisions to bring the legislation into conformity with the Convention and the national practice.* ***2013:** Observing finally that there have been no changes to the provisions of the Competition and Consumer Act prohibiting secondary boycotts or to sections 30J and 30K of the Crimes Act, the Committee once again requests the Government, in light of its comments above and in consultation with the social partners, to review the above-mentioned provisions so as to ensure that they are not applied in a manner contrary to the right of workers' organizations to organize their activities and carry out their programmes in full freedom. It further requests the Government to continue providing detailed information on the application of these provisions in practice.*
89. Bangladesh	2005, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2019, 2020, 2022 (Observations)	Various restrictions on the right to strike	**2005:** *The Committee therefore reiterates the hope that it will be possible to bring the legislation into full conformity with the requirements of the Convention as soon as possible and asks the Government to provide information in its next report with regard to measures taken or contemplated in order to:* *- lift **several restrictions on the right to strike** (requirement for three-quarters of the members of a workers' organization to consent to a strike (section 28 of the IRO), possibility of prohibiting strikes which last more than 30 days (section 32(2) of the IRO) and also at any time if a strike is considered prejudicial to the national interest (section 32(4) of the IRO) or involves a public utility service (section 33(1) of the IRO) and penalties of imprisonment for participation in unlawful industrial action (sections 57 and 59 of the IRO)).*

			2005: *The Committee recalls that for many years it has been referring to serious discrepancies between the national legislation and the Convention. It also notes that, according to the comments made by the ICFTU, there has been no improvement in national law and practice.* ***In this respect, the Committee notes that, in its latest report, the Government reiterates previously provided information and indicates that in light of the national context, there is no discrepancy between the national legislation and the Convention.*** *The Committee nevertheless underscores the universal nature of the rights set forth in the Convention and the absence of any exclusions relating to the national context.*
	2007, 2008, 2009, 2010, 2011, 2017, 2019, 2020, 2022 (Observations)	Sanctions	**2007:** *The Committee recalls that* ***for many years it had been referring to serious discrepancies*** *between the national legislation and the Convention. It now notes the adoption of the Bangladesh Labour Act, 2006 (the Labour Act) which replaced the Industrial Relations Ordinance, 1969 (section 353(1)(x)).* *The Committee notes with deep regret that the new Act does not contain any improvements in relation to the previous legislation and in certain regards contains even further restrictions which run against the provisions of the Convention. Thus, the Committee notes the following:* - *the need to repeal provisions which provide that* ***no person refusing to take part in an illegal strike shall be subject to expulsion or any other disciplinary measure by the trade union****, so as to leave this matter to be determined in accordance with trade union rules (section 229 of the Labour Act);* - *the need to amend provisions which impose a* ***penalty of imprisonment for failure to appear before the conciliator*** *in the framework of settlement of industrial disputes (section 301 of the Labour Act)*
90. Cambodia	2006 (Observation) 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2019, 2020, 2021 (Direct Requests)	Definition and determination of minimum service	**2009:** ***Previously, the Committee had requested the Government to amend section 326(1)*** *of the Labour Law, which provides that a minimum service should be arranged in the enterprise where a strike is taking place and if there is no agreement between the parties to the dispute, that the Ministry of Labour shall determine the minimum services in question. The Committee noted the Government's indication that in drafting the Trade Union Law it would consider* ***defining "minimum services"*** *narrowly, so as to refer only to minimum services to ensure public safety or protection against destruction of productive assets, or in public utilities. The Government had further indicated that it would consider empowering the Arbitration Council or another independent arbitrator to* ***determine minimum services*** *under the Trade Union Law. In these circumstances, the Committee recalls that the authorities may establish a system of minimum service in services which are of public*

			utility in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes. Minimum services could be appropriate in situations in which a substantial restriction or a total prohibition of strike action would not appear to be justified and where, without calling into question the right to strike of the large majority of workers, one might consider ensuring that users' basic needs are met or that facilities operate safely or without interruption (see General Survey, op. cit., paragraphs 160 and 162). The Committee trusts that minimum services provided for under the Trade Union Law will be in keeping with the abovementioned principles. Moreover, ***the Committee once again requests the Government to take the necessary measures to: (1) amend section 326(2) of the Labour Law, which provides that workers who are required to provide minimum service and who do not appear for such work are considered guilty of serious misconduct; and (2) amend the legislation so as to ensure that any disagreement concerning the establishment of minimum services is settled by an independent body having the confidence of all the parties to the dispute, and not the executive or administrative authority****.*
91. Fiji	2009, 2011, 2012, 2013, 2018, 2019, 2020 (Observations)	Compulsory arbitration	**2009:** *The Committee had* ***previously requested*** *the Government to amend sections 169 and 170 of the ERA, which enable each party to a dispute to refer it to the Permanent Secretary, who must refer it to mediation, and sections 181(c) and 191(1)(c) of the ERA, which enable the Minister to apply to the Court for an injunction to discontinue a strike if satisfied that the strike is not in the public interest or will jeopardize or is likely to jeopardize, inter alia, the economy. The Committee takes note of the Government's statement that the said laws are necessary for the preservation of the fragile economy during industrial disputes. Nevertheless, the Committee must recall once again that a very serious prohibition may also result in practice from the cumulative effect of the provisions relating to collective labour disputes under which, at the request of one of the parties or at the discretion of the public authorities, disputes must be referred to a compulsory arbitration procedure leading to a final award which is binding on the parties concerned. These systems make it possible to prohibit virtually all strikes or to end them quickly: such a prohibition seriously limits the means available to trade unions to further and defend the interests of their members, as well as their right to organize their activities and to formulate their programmes, and is not compatible with Article 3 of the Convention (See General Survey, op. cit., paragraph 153). Accordingly,* ***the Committee once again requests the Government to amend sections 169, 170, 181(c) and 191(1)(c) of the ERA so as to ensure that compulsory arbitration can***

			only be imposed at the request of both parties to a dispute, or in essential services in the strict sense of the term or for public servants exercising authority in the name of the State.
	2009, 2011, 2012, 2013, 2014, 2015 (**partly implemented**), 2016, 2018, 2019, 2020 (Observations)	Penalties	**2009**: *The Committee **had previously requested** the Government to amend section 256(a) of the ERA, which, when read with section 250 of the ERA, provides for a possible **penalty of imprisonment in case of the staging of an unlawful strike**. The Committee notes the Government's statement in this regard, including that the said clause's purpose is to encourage good faith in employment relationships, that all prison sentences must be justified, and that all defendants are accorded sufficient judicial safeguards. The Committee recalls that **no penal sanction should be imposed against a worker for having carried out a peaceful strike and therefore measures of imprisonment should not be imposed on any account**. Such sanctions could be envisaged only where during a strike, violence against persons or property or other serious infringements of rights have been committed, and can be imposed pursuant to legislation punishing such acts. Nevertheless, even in the absence of violence, if the strike modalities had the effect of making the strike illegitimate, proportionate disciplinary sanctions may be imposed against strikers. The **Committee therefore once again requests the Government to take measures to amend section 256(a) of the ERA, taking into account the abovementioned principle.***
92. Indonesia	2005, 2007, 2009, 2011, 2012, 2015 (Observations)	Public order - civil liberties	**2005:** *The Committee notes with concern that section 8(e) of the Guidelines provides that "firearms can be used only in situations where there is serious and imminent threat to the safety of life and property and dignity …". **The Committee considers that police interference in strikes and protests, especially with the use of firearms should be limited to exceptional situations of violence involving a genuine threat to public order and considers that the reference in the Guidelines to an imminent threat to "dignity" may be too general and may not ensure sufficient guarantees against the use of excessive violence**.* **2015:** *The Committee previously pointed to a number of shortcomings in relation to the exercise of the right to strike, in particular concerning: (i) the manner of determining failure of negotiations (section 4 of Ministerial Decree No. KEP.232/MEN/2003); (ii) the issuance of back-to-work orders prior to the determination of the illegality of the strike by an independent body (section 6(2) and (3) of Ministerial Decree No. KEP.232/MEN/2003); (iii) the extensive time period accorded to mediation/conciliation procedures (Industrial*

			Relations Dispute Settlement Act No. 2 of 2004); and (iv) the criminal conviction for violation of certain provisions in relation to the right to strike (section 186 of Manpower Act No. 13 of 2003). ***The Committee notes the Government's view regarding point (iv) that it is not necessary to amend section 186, given that sanctions need to be imposed by law if the right to freedom of opinion, association and gathering guaranteed by the Indonesian Constitution is implemented in such a way that the strike causes disturbance of public order and anarchy.***
	2007, 2009, 2011 (Observations)	Conditions for right to strike	**2007:** ***In previous comments****, the Committee had noted that for a strike to be considered legal it must be carried out subsequent to "failed negotiations" (section 3 of Ministerial Decree No. KEP. 232/MEN/2003) and that negotiations shall be considered failed only if both sides make a declaration to this effect in the negotiation minutes (section 4 of the abovementioned Decree). Noting from the Government's report that the right to strike is a basic right that should be carried out legally, orderly and peacefully as a consequence of failed negotiations,* ***the Committee once again recalls that the conditions stipulated in the law for the exercise of the right to strike should not be such that the exercise of this right becomes very difficult or even impossible in practice.*** *The Committee requests the Government to indicate in its next report the measures taken or contemplated* ***to amend section 4 of Ministerial Decree No. KEP****. 232/MEN/2003 so that a finding as to whether negotiations have failed, which is a condition for the lawful staging of strikes, can be made either by an independent body or be left to the unilateral determination of the parties to the dispute.*
	2007, 2009, 2011 (Observations)	Sanction for strike action	**2007:** ***In previous comments****,* ***the Committee had requested the Government to amend its legislation so as to ensure that the sanctions for illegal strike action are not disproportionate****, given that heavy sanctions can be imposed, under section 185 of the Manpower Act, for violations of section 139 of the Manpower Act (one to four years' imprisonment and/or a fine from Rp.100,000,000 to Rp.400,000,000). The Committee notes that the Government's report does not provide information in this regard and* ***once again requests it to amend the sanctions imposed under section 185 of the Manpower Act for illegal strike action in violation of section 139 of the Manpower Act so as to ensure that such sanctions are not disproportionate to the seriousness of the offence****. The Committee would point out in this regard that any violent act can always be punished under the general penal law. However, penal sanctions for participation in a peaceful strike action should not be resorted to.*

93. Iraq	2021 (first report in 2018) (Observations)		**2018:** ***The Committee thus requests the Government to submit a detailed report, including information on all the items set out on the report form (such as on how each relevant provision of the Convention is given effect by identified aspects of national law and practice)****, as well as a copy of the latest version of the Trade Union Organizations for Workers and Employees Bill (or Act if already adopted), and recalls that* ***it may avail itself of the ILO's technical assistance in this regard.***
94. Israel	2007, 2011 (Direct Requests)	Public servants	**2007:** *Recalling that the* ***prohibition of the right to strike in the public service*** *should be limited to public servants exercising authority in the name of the State, the Committee requests the Government to provide its observations on the ITUC's communication and to transmit the Labour Court's decisions in the two abovementioned cases.*
95. Japan	1989, 1991, 1993, 1995, 1996, 1998, 2006, 2007, 2009, 2000, 2002, 2003, 2005, 2011, 2014, 2017, 2018, 2019, 2020, 2021 (Observations)	Definition of public service and essential service - compensatory guarantees	**1989:** *On the first point, the Committee notes the statement by the Government representative to the Conference Committee in 1987 to the effect that the Government had not taken a rigid and inflexible attitude with regard to this issue and nor would it do so in the future. As it does not appear from the Government's report that there have been any developments in the situation in this respect, t****he Committee is bound to reiterate its previous conclusions, namely that the principle whereby the right to strike may be limited or prohibited in the public service or in essential services****, whether public, semi-public or private, would become meaningless if the legislation defined the public service or essential services too broadly. In the Committee's opinion, such a prohibition should be confined to public servants acting in their capacity as agents of the public authority or to services whose interruption would endanger the life, personal safety or health of the whole or part of the population. Moreover, if strikes are restricted or prohibited in the public service or in essential services,* ***appropriate guarantees*** *must be afforded to protect workers who are thus denied one of the essential means of defending their occupational interests. Restrictions should be offset by adequate, impartial and speedy conciliation and arbitration procedures in which the parties concerned can take part at every stage and in which the awards should in all cases be binding on both parties. Such awards, once rendered, should be rapidly and fully implemented.* **2002:** *The Committee recalls that* ***in its previous comments*** *it had referred to the detailed comments of the Fact-Finding and Conciliation Commission on Freedom of Association and stressed the importance "... in circumstances where strikes are prohibited or restricted in the civil service or in essential services within the strict meaning of the term, of*

			according sufficient guarantees to the workers concerned in order to safeguard their interests" (ILC, 63rd Session, 1977, Report III(4A), page 153). ***The Government limits itself to stating in this respect that the Supreme Court of Japan has held that the prohibition of strikes by public servants is constitutional, something it had already mentioned at the time (ILC, 64th Session, 1978, Report III(4A), page 143****). The Committee also notes with concern the decisions of the Committee on Freedom of Association in the abovementioned cases concerning public servants and in Case No. 2114 concerning public school teachers (328th Report, paragraphs 371-416).* ***The Committee is bound to note that the situation has not evolved significantly. It recalls, once again, that the prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State*** *(see General Survey of 1994 on freedom of association and collective bargaining, paragraph 158). It requests the Government to indicate in its next report the measures taken or envisaged to ensure that the right to strike is guaranteed to public servants who are not exercising authority in the name of the State and to workers who are not working in essential services within the strict sense of the term, and that the others (e.g. hospital workers) benefit from sufficient compensatory guarantees in order to safeguard their interests, namely adequate, impartial and speedy conciliation and arbitration procedures, in which the parties have confidence and can participate at all stages, and in which the awards, once made, are binding and fully and promptly implemented. The Committee notes that the issues mentioned above, and many others, are to be addressed as part of the major civil service reform currently under way. This reform has been the subject of recent complaints before the Committee on Freedom of Association (Cases Nos. 2177 and 2183). The Committee notes with concern from the conclusions in these cases, and from the Government's report, that it "has decided to retain the current restrictions on the workers' fundamental rights". The Committee emphasizes that, as the Government embarks upon a reform process which will establish the legislative framework of industrial relations for many years to come, the time would be particularly appropriate to hold full, frank and meaningful consultations with all interested parties, on all the issues which create difficulties with the application of the Convention and whose practical problems have been raised by workers' organizations over the years. The Committee requests the Government to keep it informed of developments in this respect in its next report.*
	2011, 2018, 2021 (Observations)	External permission for a strike	**2011:** *The Committee further observes with concern that section 40(b) appears to enable the exercise of strike action only following the* ***approval from "the relevant labour***

			federation”*. The Committee considers that the right to strike should not be subjected to legislative restrictions which would place the authority to permit strike action with higher-level workers’ organizations regardless of the rules of the organizations concerned or the affiliation of the lower-level organization.* ***The Committee requests the Government to indicate the steps taken to amend this section so as to ensure the right of all workers’ organizations, including at the basic level, to organize their activities and formulate their programmes in full freedom****.*
96. Kuwait	1989, 1992, 1993, 1994, 1995, 1996, 2004, 2006, 2011, 2015, 2017, 2022 (Observations)	Compulsory arbitration	**1989:** *With reference to section 88 of the Labour Code under which* ***compulsory arbitration may be imposed at the request of one of the parties in order to settle a labour dispute and end a strike****, in its report the Government explains that the purpose of this provision is to settle collective disputes as speedily as possible. The Government considers that, since the arbitration board is composed of a Chamber of the Court of Appeal, the equity of its decisions is guaranteed for all. The Committee takes note of these statements, but recalls that the right to strike is one of the essential means available to workers' organisations for the promotion and protection of the interests of their members. It requests the Government to revise its legislation in order to ensure that compulsory arbitration with a view to ending a strike cannot be imposed except in the case of strikes in essential services in the strict sense of the term or in the event of acute national crisis.* **2022:** ***In its previous comments****, the Committee had requested the* ***Government to amend sections 131 and 132 of the Labour Law. Section 131 gives the Ministry of Labour the power to intervene in a labour dispute without the request of any of the parties and eventually to submit the dispute to conciliation or arbitration.*** *Section 132 prohibits strikes during conciliation or arbitration proceedings initiated because of the intervention of the Ministry. The Committee had recalled that compulsory arbitration to end a collective labour dispute and a strike is only acceptable if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted, even banned, i.e. in disputes concerning public servants exercising authority in the name of the State, or in essential services in the strict sense of the term – that is, services whose interruption would endanger the life, personal safety or health of the whole or part of the population. The Committee notes the Government’s indication that in practice it has never intervened in any dispute out of respect for the principles enshrined in the Convention, and that it will continue to follow this approach of refraining from intervention unless the parties to the dispute request its intervention.* ***While duly noting this information, the Committee recalls the need to***

			ensure the conformity of legislative provisions with the Convention, even when they are not applied in practice, and once again requests the Government to take the necessary measures to amend sections 131 and 132 of the Labour Law in light of the above and to keep it informed of the measures taken in this regard.
97. Maldives	2017 (Direct requests) 2021 (Observations)	Restrictions to strike action	**2017:** *In view of the above and emphasizing that the right to strike is a constitutionally guaranteed right,* ***the Committee requests the Government to take the necessary measures to repeal section 24(b)(7) of the Freedom of Peaceful Public Assembly Act and amend sections 5, 7, 8 and 11 of the Regulation on dispute resolution, so as to remove undue restrictions on the right to strike*** *and ensure that all workers covered by the Convention, including those in island resorts, can in practice exercise their right to strike.* *Further* ***observing that section 6 of the Regulation on dispute resolution does not set any time limit for the exhaustion of the obligatory grievance redress mechanism at the employer level, and recalling that such machinery should not be so complex or slow that a lawful strike becomes impossible in practice or loses its effectiveness****, the Committee requests the Government to provide information on the application in practice of section 6 of the Regulation.*
98. Mongolia	2000, 2001, 2002, 2003, 2004, 2005, 2006, 2010, 2014, 2015, 2017, 2021 (Direct request)	Sympathy strikes	**2000**: ***The Committee further notes that section 120.9 noted above would appear to have the impact of prohibiting sympathy strikes.*** *In this respect, the Committee recalls that workers should be able to engage in sympathy strikes, provided the initial strike they are supporting is itself lawful. (See 1994 General Survey, paragraph 168.)* ***The Committee requests the Government to confirm whether sympathy strikes are indeed prohibited under this section and, if so, to indicate in its next report the measures taken or envisaged to amend this section so as to ensure that workers will not be punished for engaging in sympathy action when the initial strike is lawful.*** **2021:** *In its previous comments, the Committee had also requested the Government to take the necessary measures, in consultation with the social partners, in order to ensure that trade unions can use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends and have recourse to sympathy strikes by virtue of the freedoms set out in article 16 of the national Constitution.* ***Noting that the Committee's request has not been reflected in the final version of the Labour Law, the Committee requests the government to provide its comments in this respect and encourages it to continue discussing the matter with the social partners.***

	2000, 2001, 2002, 2003, 2004, 2005, 2006, 2010, 2014 (Direct request)	Strike duration	**2000:** *The Committee also notes that section 120.4.2 requires that strike notice include an indication of the duration of the strike.* ***The Committee considers that a requirement that the duration of a strike be announced when giving strike notice is contrary to the right of workers' organizations to organize their activities and formulate their programmes in full freedom.*** *The right to strike is, by definition, a means of pressure available to workers and their organizations for the promotion and defence of their economic and social interests. The Committee therefore requests the Government to indicate in its next report the measures taken or envisaged to repeal the obligation to notify the duration of a strike when giving strike notice.* **2003:** ***The Committee therefore requests the Government to amend its legislation so as to ensure that no legal obligation to notify the duration of a strike is imposed on workers' organizations*** *and to keep it informed of measures taken or envisaged to repeal this requirement.*
99. Myanmar	2010, 2011 (**implemented in 2012**) (Observations)	Prohibitions on the right to strike and compulsory arbitration	**2010:** *The Committee further recalls that, for several years, it has indicated that there exist some pieces of legislation containing serious restrictions to freedom of association or provisions which, although not directly aimed at freedom of association, can be applied in a manner that seriously impairs the exercise of the right to organize. More specifically: […] and (vi) the 1929 Trade Disputes Act contains numerous* ***prohibitions of the right to strike*** *and empowers the President* ***to refer trade disputes to courts of inquiry or to industrial courts****.* **2011:** *The Committee observes, however, that, in its latest report, while recalling that these matters are being discussed in the Hluttlaw,* ***the Government states that the Orders are important in ensuring law and order and community peace and tranquillity and that the Unlawful Association Act is necessary in protecting against illegal armed forces.***
	2011, 2018, 2021, (Observations) 2016 (Direct requests)	External authorization	**2011***: The Committee further observes with concern that section 40(b) appears to enable* ***the exercise of strike action only following the approval from "the relevant labour federation".*** *The Committee considers that the right to strike should not be subjected to legislative restrictions which would place the authority to permit strike action with higher-level workers' organizations regardless of the rules of the organizations concerned or the affiliation of the lower-level organization. The Committee requests the Government to indicate the steps taken to amend this section so as to ensure the right of all workers' organizations, including at the basic level, to organize their activities and formulate their programmes in full freedom.*

	2012, 2014, 2016, 2017 (Direct requests)	Majority for a strike – general and sympathy strikes	**2012***: The Committee observes the concerns raised by the ITUC in relation to the requirement that* ***a majority of workers vote for strike action to be undertaken,*** *and requests the Government to confirm that this concerns the majority of those voting, in order to ensure that this does not create an excessive obstacle to the undertaking of industrial action. It further requests the Government to confirm more generally that workers' organizations may* ***carry out actions in protest of the economic and social policy of the Government, and that sympathy action is protected in the event that the initial action is legitimate.***
100. Pakistan	1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2001, 2003, 2004, 2005, 2006, 2008, 2009, 2011 (Observations)	Recourse to strikes - public utility and essential services	**1991:** ***For some years the Committee has been drawing the Government's attention to the fact that certain of the restrictions on recourse to strikes which are set out in sections 32 and 33 of the Industrial Relations Ordinance seem to interfere with the right to strike.*** *The Committee notes that section 32(2) of the Ordinance enables the Government to prohibit any strike or lock-out where it has lasted for more than 30 days, or where the Government is satisfied that continuance of the strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest. Section 33(1) on the other hand enables the Government to prohibit any strike or lock-out, before or after its commencement, where the dispute is of "national importance" or involves "public utility services" within the meaning of the Schedule to the Ordinance. These restrictions appear to the Committee to go beyond what is necessary in order to maintain services whose interruption would endanger the life, personal safety or the health of the whole or part of the population.* ***It must, therefore, urge the Government to ensure that these provisions are amended so as to bring them into full conformity with the requirements of the Convention.*** **1997:** *Apparently, however,* ***the Court indicated that, in the absence of statutory backing, these employees would not have the right to strike or participate in go-slows and that the Government could provide reasonable restrictions in this respect through statutory rules under section 26 of the Industrial Relations Ordinance (IRO).*** *While welcoming the decision of the Supreme Court concerning the right to organize for these workers, the Committee would recall that the right to strike may only be restricted in respect of essential services, that is services the interruption of which would endanger the life, personal safety or health of whole or part of the population, and in cases of acute national crisis. The Government may consider however in this regard the establishment, in consultation with the workers' organizations concerned, of a negotiated minimum service to meet basic needs or to ensure that facilities are operated safely. Furthermore, noting that these workers are*

			excluded from the IRO and noting the indication in the Government's report that the recommendations of the tripartite task force on labour to restore trade union rights to PTVC and PBC employees were still being considered, ***the Committee expresses the firm hope that the Government will take the necessary measures to bring its legislation into conformity with the Supreme Court judgement as concerns the right to organize of these workers and to ensure that they are not prohibited from exercising the right to strike.***
101. Papua New Guinea	2003, 2004, 2006, 2007, 2008, 2009, 2011 (Direct requests)	Compulsory arbitration	***2003:*** *The Committee notes that section 30 of the Industrial Relations Act contains special provisions for certain disputes. This section applies to an industrial dispute that, in the opinion of the Head of State, is of "such importance that, in the public interest, it should be dealt with as provided for in this section". It further provides that "The Head of State may at any time refer an industrial dispute to which this section applies to a tribunal for decision and the making of an award." The Committee considers that providing for compulsory arbitration seriously limits the means available to trade unions to further and defend the interests of their members, as well as their right to organize their activities and to formulate their programmes and is not compatible with Article 3 of the Convention.* ***The Committee requests the Government to provide more information on the use of this procedure in practice, in particular the number of times industrial disputes have been referred to a tribunal during the period covered by the present report and to specify the types of disputes in question. It further requests the Government to provide information on the effective exercise of the right to strike in the country.***
102. Philippines	1998, 2000, 2001, 2003, 2004, 2006, 2007, 2008, 2010, 2012, 2015, 2016, 2018, 2019, 2020 (Observations)	Sanctions - penal sanctions	**1998:** *With respect to section 146 of the Penal Code, the Government indicates that it addresses two types of illegal assemblies: (i) a meeting attended by armed persons for the purpose of committing any crime; (ii) a meeting where the audience is incited to the commission of treason, rebellion, sedition or assault. It states further that the reference in the section to "meeting" should not be construed as including picketing unless such picketing is attended by armed persons for the purpose of committing any crime, or it incites the audience to the commission of treason, rebellion, sedition or assault. The Committee is again obliged to point out that paragraph 3 of section 146 refers to participation in "any meeting which is held for propaganda purposes against the Government...", and that "meeting" is defined to include "picketing of labour groups and similar group actions". While noting the point made by the Government in its report that a person punished under section 272 of the Labor Code will not be subject to prosecution under the Penal Code, the Committee nevertheless remains of the view that the sanctions for strike action (including picketing) provided under the Labor Code and the Penal Code*

			are unduly harsh, and not proportionate to the offences, in particular, penalties of ***imprisonment should not be imposed in the case of peaceful strike****s. The Committee, therefore, again requests the Government to amend the provisions of the Penal Code and the Labor Code to ensure that the* ***sanctions imposed for illegal strikes are commensurate with the nature of the offence****.* **2020:** *The Committee had* ***previously requested the Government*** *to amend sections 264(a) and 272(a) of the Labor Code, which provided for* ***dismissal of trade union officers and penal liability to a maximum prison sentence of three years for participation in illegal strikes****, so as to ensure that workers may effectively exercise their right to strike without the risk of being penally sanctioned. The Committee notes the Government's indication that, within the context of the abovementioned legislative reform, the second bill removes the possibility of imposing a criminal sanction for mere participation in an illegal strike on grounds of non-compliance with the administrative requirements. The Committee recalls that* ***no penal sanction should be imposed against a worker for having carried out a peaceful strike and on no account should measures of imprisonment be imposed****. Such sanctions could be envisaged only where, during a strike, violence against persons or property or other serious infringements of rights has been committed, and can be imposed pursuant to legislation punishing such acts.* ***The Committee expresses the firm hope that any new legislative text will ensure the application of this principle.***
	2003, 2004, 2006 2007, 2008, 2010, 2012, 2015, 2016, 2018, 2019, 2020 (Observations)	Compulsory arbitration	**2003:** *The Committee had* ***previously requested the Government*** *to take the necessary measures to amend section 263(g) of the Labor Code so as to limit governmental intervention resulting in compulsory arbitration to the essential services in the strict sense of the term only. The Committee notes the Government's indication that, within the context of the abovementioned legislative reform, the first of the abovementioned bills seeks to amend section 263(g) so as to limit the assumption of jurisdiction of the Secretary of Labor (and the President) to the ILO's concept of "essential services". The Committee further notes the Government's indication that Department Order No. 40-G-03 providing the implementing rules on the exercise of the assumption of jurisdiction power of the Secretary of Labor was adopted as an interim administrative measure on 29 March 2010. The Committee notes that, according to new section 15 of Rule XXII of the Order, "when a labor dispute causes or is likely to cause a strike in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the National Labor Relations Commission for*

			compulsory arbitration" either upon a request by both parties to the dispute or "after a conference called by the Office of the Secretary of Labour and Employment … moto proprio or upon a request of petition by either parties to the labor dispute". The Committee recalls that ***compulsory arbitration to end a collective labour dispute and a strike is acceptable if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted****, even banned, that is in the case of disputes in essential services in the strict sense of the term, namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population. The Committee considers that the term "national interest" is too broad to fall within a strict definition of what may constitute an essential service. The Committee requests the Government to amend Department Order No. 40-G-03 so as to ensure the application of this principle. The Committee expresses the firm hope that the bill referred to by the Government will ensure that governmental interference resulting in compulsory arbitration will be limited solely to the essential services in the strict sense of the term.* ***The Committee requests the Government to indicate all measures taken in this respect and to provide relevant statistics on the recourse had to section 263(g) in the meantime.***
103. Republic of Korea	NO COMMENTS (Ratified C87 in 2021)		
104. Samoa	2011, 2012, 2015, 2018, 2022 (Direct Requests)	Public service - essential services	**2011:** *While observing that the draft Bill contains provisions which are in general in conformity with the Convention,* ***the Committee requests the Government to make sure that the draft Bill ensures that: […] workers are granted the right to strike to defend their economic and social interests with the only possible exception of civil servants exercising authority in the name of the State, essential services in the strict sense of the term*** *(that is, service the interruption of which would endanger the life, personal safety or health of the whole or part of the population) or in case of acute national or local crisis;* **2022:** ***The Committee had previously requested the Government to take all necessary measures to amend the Public Service Act 2004 so as to ensure that public servants had the right to participate in strike actions****. The Committee notes the Government's indication that the forthcoming Public Service Amendment Bill provides for a repeal of section 48(1)(b) of the Public Service Act, which, according to the previous findings of the Attorney-General, prevented workers from participating in strike actions.* ***The Committee hopes that the Public Service Act will be amended without further delay*** *and requests the*

			Government to provide information on any developments in this regard, including a copy of the law as amended.
105. Solomon Islands	2015, 2018, 2022 (Direct Requests)	Compulsory arbitration	**2015:** ***The Committee notes*** *the Government's first report and, welcoming the commitment of the Government, it wishes to* ***draw the Government's attention to certain legal provisions which are not in conformity with the Convention and which would need to be amended in order*** *to: […]* ***Ensure that compulsory arbitration (sections 4(2) and 6(1) of the Trade Disputes Act (TDA)) in trade disputes*** *or in the framework of collective bargaining is only possible when* ***the dispute concerns essential services in the strict sense of the term or public servants*** *exercising authority in the name of the State, or in situations of acute national crisis to the extent necessary to address the situation.*
106. Sri Lanka	2006, 2008, 2010, 2012, 2015, 2018, 2022 (Observations)	Compulsory arbitration	**2006:** *In these circumstances,* ***the Committee therefore requests once again the Government to take the necessary measures to amend sections 4(1) and 4(2) that can give rise to compulsory arbitration****, so as to ensure that any reference of labour disputes to compulsory arbitration is only at the request of both parties to the dispute or, in the case of essential services, in the strict sense of the term or in the case of public servants, exercising authority in the name of the State. The Committee requests the Government to keep it informed of further developments in this regard.*
107. Syrian Arab Republic	1989, 1991, 1992, 1993,1995, 1996, 1998, 1999, 2000 (Observations)	Right to strike in agricultural sector	**1989:** *The Committee recalls that the discrepancies between the national legislation and the Convention concern the following:[…] - section 160 of the Agricultural Labour Code of 1958 prohibiting strikes in the agricultural sector. In the opinion of the Committee,* ***it is most important that legislation should not deprive agricultural trade unions of the right to strike, as this is an essential means by which they may promote and defend the occupational interests of their members****.*
	2002, 2003, 2004, 2006, 2007, 2008, 2010, 2012, 2016, 2017, 2018, 2022 (Observations)	Penal sanctions	**2002:** *The Committee recalls that it has been commenting for many years on the following legislative provisions: - sections 330, 332, 333 and 334 of Legislative Decree No. 148 of 1949, issuing the Penal Code,* ***restricting the right to strike by imposing heavy sanctions including imprisonment.*** **2022:** *Recalling that in the past, the Government had indicated that the GFTU was working to modify the Labour Act to ensure coherence with articles of the Constitution granting workers the right to strike,* ***the Committee expects that the law will be amended so as to bring it into line with the Convention*** *and requests the Government to provide information in this regard. While noting the Government's indication that the agricultural sector is now governed by Law No. 56 of 2004, the Committee also requests the Government to indicate*

			whether workers of this sector enjoy the right to strike and identify the relevant legislative provisions.
108. Vanuatu	2015, 2016, 2017, 2018, 2022 (Observations)	Public authorities intervention	**2015:** *The Committee notes the Government's first report and observes that a number of legislative provisions raise issues of compatibility with the Convention.[…]* ***Excessively broad powers of public authorities to intervene in strikes, in particular when they consider that these may be "gravely injurious to the national economy****" (sections 26–29 and 34 of the Trade Disputes Act), a comprehensive notion that is not defined further.*

COUNTRY	YEARS	ISSUE	CEACR COMMENTS
EUROPE			
109. Albania	2005, 2007, 2009, 2011, 2013, 2016, 2019, 2020, 2021, 2023 (Observations) 1996, 1998, 1999, 2000, 2001, 2002, 2003, 2005 (Direct requests)	Mediation and conciliation - sympathy strikes (**implemented in 2016**) - suspension of strikes - public servants and essential services - minimum service - majority required for calling a strike and duration of a strike – imprisonment	**2009**: *The Committee notes the comments of the Confederation of Trade Unions of Albania (CTUA) concerning the Government's last report, and the comments made by the International Trade Union Confederation (ITUC) on matters already examined by the Committee in previous comments. The Committee notes that, according to the CTUA, it is only possible to* ***call a strike after the completion of mediation and conciliation procedures*** *and that, of the approximately 30 cases submitted by the union for mediation, only eight, all in the energy sector, have been examined over the past two years. The Committee recalls that while the requirement of the exhaustion of remedies before a strike is compatible in spirit with the principles of freedom of association, the procedures should not be so complex or slow that a lawful strike becomes impossible in practice or loses its effectiveness (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 171). The Committee requests the Government to provide its observations in reply to the comments of the CTUA, and to provide further information in its next report on the mediation and conciliation procedures required prior to calling a strike, including the number of appeals lodged and examined.* ***In its previous observation****, the Committee requested the Government to indicate the measures taken to amend section 197/7(4) of the Labour Code, under the terms of which a* ***sympathy strike is lawful if it is staged in support of a lawful strike against an employer who is actively supported by the employer of the sympathy strikers****. The Committee recalled that workers should be able to stage sympathy strikes provided that the initial strike that they are supporting is itself lawful. The Committee notes the Government's indication in its report that it is considering the amendment of section 197/7(4) in accordance with the principles recalled above. The Committee trusts that the Government's next report will contain information on the amendment of section 197/7(4) of the Labour Code to bring it into conformity with the principles of freedom of association.*

			Finally, the Committee ***previously requested the Government to clarify the meaning of the term "extraordinary situation" in which a strike may be suspended****, under the terms of section 197/4 of the Labour Code. The Committee notes that, according to the Government, the expression "extraordinary situation" set out in section 197/4 of the Labour Code corresponds to a state of emergency decreed by the National Assembly under the terms of the National Constitution.* **2016**: ***For a number of years****, the Committee has been requesting the Government to take measures to: (i) amend section 197/7(4) of the Labour Code concerning sympathy strikes; and (ii)* ***ensure that all public servants who do not exercise authority in the name of the State are able to exercise the right to strike****. The Committee notes with satisfaction that the Government informs that Act No. 136 of 5 December 2016 on some supplements and amendments to the Labour Code, amends article 197/7 to provide that sympathy strikes shall be lawful provided that it supports a legal strike.* *The Committee further notes that the Government informs that Act No. 152/2013 on the civil servants provides for the right to join unions and professional associations and for the right to strike to civil servants except as otherwise provided by law. The Government indicates that in any case the right to strike is not permitted in relation to essential services of state activity. The Committee recalls in this regard that prohibitions to the right to strike, which curtail the right of unions to organize their activities to defend the interest of workers, may only be imposed in relation to public servants exercising authority in the name of the State, essential services in the strict sense of the term (the interruption of which would endanger the life, personal safety or health of the whole or part of the population) or in situations of acute national or local crisis (for a limited period of time and to the extent necessary to meet the requirements of the situation).* ***The Committee observes that the list of essential services provided in article 35 of the Act on the civil servants includes services such as transport or public television, which may not be considered essential services in the strict sense of the term.*** *The* ***Committee requests the Government to indicate any further exceptions to the right to strike set out in the laws and to take any necessary measures to ensure that the legislation is amended in accordance with the abovementioned principles****.*

			2023: *In its previous comments, the Committee requested the Government to indicate whether civil servants not exercising authority in the name of the state, and working in the transport and public television services may exercise the right to strike, subject to the possible establishments of minimum services and, if these civil servants are not able to exercise the said right, to take the necessary measures to amend the legislation (section 35 of the Act on civil servants (No. 152 of 2013)). The Committee notes the Government's indication that while civil servants enjoy the right to strike, except those who exercise authority in the name of the state, the right to strike is not allowed in essential services, such as transport and public television. The Committee considers that essential services, for the purposes of restricting or prohibiting the right to strike, are only those "the interruption of which would endanger the life, personal safety or health of the whole or part of the population", and that transport and public television are not essential services in the strict sense of the term (see the 2012 General Survey on the fundamental Conventions, paragraphs 131, 134 and 135).* ***The Committee once again recalls that the introduction of a negotiated minimum service, as a possible alternative to the full prohibition of strike action in these public services in which it is important to deliver the basic needs of users, could be appropriate*** *(see the 2012 General Survey on the fundamental Conventions, paragraph 136). The Committee once again requests the Government to take the necessary measures to amend section 35 of the Act on civil servants accordingly and to provide information on measures taken to that end.* **1996**: *The Committee notes that under section 2 of Decree No. 7458 of 22 February 1991 on the right to strike, a strike may be declared only after* ***agreement by a majority vote of workers.*** *The Committee expressed the opinion that only votes cast should be taken into account (see 1994 General Survey on freedom of association and collective bargaining, paragraph 170). The Committee understands from section 4 of Decree No. 7458 that* ***once a strike is declared, with 15 days' notice, it may not last more than one day****. The Committee requests the Government to confirm whether this is the case.* *The Committee notes that in the sectors aimed at meeting essential needs, such as provision of bread, essential everyday consumer products, water and electric power, public transport, health, civil protection, the judiciary, posts and telecommunications, radio and television, state education, social welfare and customs services, strikes are permitted only if the people can be assured that these needs will be met (Decree No. 7458,*

			section 7). ***The Committee recalls that restrictions to the right to strike are admissible only in the essential services which are those the interruption of which would endanger the life, personal safety or health of the whole or part of the population*** *(see General Survey of 1994 on freedom of association and collective bargaining, paragraph 159). The Committee requests the Government to supply information on how it is determined that these conditions will be met, on the applicable criteria and the competent authorities, as well as on possibilities for the workers concerned to defend their interests if they are not allowed to strike (see paragraph 160 of the General Survey, on determination of the essential services). ... The Committee recalls that restrictions on the right to strike are only admissible in essential services, that is to say services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see 1994 General Survey on freedom of association and collective bargaining, paragraph 159).* **1998**: ***As regards the prohibitions of strike action contained in section 6(c) and (ch) and section 9(2) under penalty of three months' imprisonment,*** *the Committee considers that the prohibition of strikes on public holidays and on the two days before and after a public holiday, or in sectors where strikes have serious consequences for production or when an order to stop the strike has been issued by a court at the request of an employer, is not in conformity with the principles of freedom of association. Furthermore, the Committee considers that sanctions for strike action should only be possible where the prohibitions of strike action are in conformity with freedom of association principles, and the sanctions should not be disproportionate to the seriousness of the violation (see General Survey, op. cit., paragraph 177). The Committee in addition requests the Government to communicate any judicial decisions that have the effect of declaring a strike illegal, to enable it to examine the conformity of those decisions with the principles of freedom of association.*
110. Armenia	2010, 2011, 2013, 2016 (Direct requests) 2020 (**comments implemented in 2023**) (Observations)	Majority required for calling a strike - minimum service	**2010**: *The Committee notes section 74(1) of the Labour Code regulating the declaration of a strike. The Committee notes that a vote by twothirds of an organization's (enterprise's) employees is required to declare a strike. If a strike is declared by a subdivision of an organization, a vote by twothirds of employees of that subdivision is required, but if such a strike hampers the activities of other subdivisions, the strike should be approved by twothirds of employees of the subdivision, which may not be less than half of the total number of employees of an organization. The Committee considers that the requirement of a decision by over half of all the workers involved in order to declare a strike is excessive.*

			The Committee recalls in this respect, that if a member State deems it appropriate to establish in its legislation provisions which require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey, op. cit., paragraph 170). The Committee therefore requests the Government to take the necessary measures in order to amend section 74 of the Labour Code so as to lower the required majority and to ensure that account is taken only of the votes cast. *The Committee further notes section 77(2) of the Labour Code providing that* ***minimum services are determined by the corresponding state and local selfgovernance entities****. In the view of the Committee, minimum service should meet at least two requirements. Firstly, and this aspect is paramount, it must genuinely and exclusively be a minimum service, that is one which is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear. Secondly, since this system restricts one of the essential means of pressure available to workers to defend their economic and social interests, their organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities. It would be highly desirable for negotiations on the definition and organization of the minimum service not to be held during a labour dispute, so that all parties can examine the matter with the necessary objectivity and detachment. The parties might also envisage the establishment of a joint or independent body responsible for examining rapidly and without formalities the difficulties raised by the definition and application of such a minimum service and empowered to issue enforceable decisions (see General Survey, op. cit., paragraph 161).* ***The Committee requests the Government to take the necessary measures to amend section 77(2) of the Labour Code so as to ensure that the parties are able to participate in the definition of what constitutes a minimum service.*** **2020**: *The Committee recalls that* ***it had previously requested*** *the Government to amend:* *[…]* *-section 74(1) of the Labour Code, which requires a* ***vote by two-thirds of an organization's (enterprise's) employees to declare a strike*** *(or a vote by two thirds of employees of the subdivision if a strike is declared by a subdivision of an organization, as the case may be), so as to ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level; and*

			-section 77(2) of the Labour Code, according to which, ***minimum services are determined by the corresponding state and local self-governance entities****, so as to ensure that social partners are able to participate in the definition of what constitutes a minimum service.* *…* *The Committee further notes the Government's indication that the Labour Code is currently being reviewed to determine whether its above-mentioned sections should be amended. The Government informs, in particular, that it is suggested to amend section 74(1) of the Labour Code so as to require a favourable vote by the majority of employees who have participated in the closed ballot to call a strike if at least two-thirds of the total number of the employees of an organization/undertaking (or its subdivision) have participated in the ballot. The Government indicates that the question of acceptable quorum will be further discussed with the social partners. As regards section 77(2) of the Labour Code, the Committee notes that the Government's indication that a new proposal for amendments contains reference to the negotiation of minimum services between employers and workers' representatives. While welcoming the proposed amendments, the Committee recalls that the observance of a quorum of two-thirds of the total number of employees may also be difficult to reach and could restrict the right to strike in practice.* ***It therefore requests the Government to ensure that the quorum and majority required for voting on a strike as well as to call a strike are fixed at a reasonable level. The Committee requests the Government to provide information on the developments regarding the amendment of the Labour Code.*** **2023**:*The Committee also requested the Government to amend the following sections of the Labour Code:* *section 74(1), which requires a vote by two-thirds of an organization's (enterprise's) employees to declare a strike (or a vote by two thirds of employees of the subdivision if a strike is declared by a subdivision of an organization, as the case may be), so as to ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level;* *section 77(2), according to which, minimum services are determined by the corresponding state and local self-governance entities, so as to ensure that social partners are able to participate in the definition of what constitutes a minimum service.* *The Committee notes the Government's indication that Law HO-160-N was adopted on 3 May 2023, which amended sections 74(1) and 77(2) of the Labour Code. The Committee*

			notes with satisfaction the amendment made to section 74(1), which lowers the strike vote requirement (a vote is now required by "the majority of votes of workers who participated in the vote, which cannot be less than half of the total number of workers or half of the employees of the organization", or of the subdivision if the strike is declared by a subdivision). *The Committee notes with satisfaction the amendment made to section 77(2) of the Labour Code, which now provides for negotiations with the social partners to determine the minimum services required during a strike.*
111. Austria	NO COMMENTS		
112. Azerbaijan	1995, 1996, 2016, 2019, 2023 (Direct requests) 1996, 1999, 2000, 2002, 2003, 2004, 2006, 2007, 2009, 2011 (Observations)	Sanctions - public servants - essential services (**implemented in 1999**)	**1995:** *The Committee notes that the right to strike is referred to in section 19 of the Act which provides that trade unions may organize and hold strikes in accordance with the legislation in force. The Committee requests the Government to indicate, in its next report, whether further laws or regulations are in force or in the pipeline concerning the exercise of the right to strike. It also requests the Government to indicate whether section 190(3), read together with section 24 of the Penal Code of the former USSR, which contained* ***important restrictions on the right of workers to participate in collective action aimed at disturbing transport operations, state or social institutions or undertakings****, combined with* ***severe sanctions, including sentences of imprisonment for up to three years are still in force and, if so, to consider amending or repealing these provisions****.* **2016**: *The Committee notes the Government's indication that, pursuant to section 20.1.7 of the Law on Civil Service, all* ***civil servants are prohibited from exercising the right to strike.*** *Recalling that States may restrict or prohibit the right to strike in the public service only for public servants exercising authority in the name of the State, the Committee requests the Government to list the specific categories of civil servants covered by the Law on Civil Service whose right to strike is thus prohibited.* **2023**: *The Committee recalls that it had previously noted that pursuant to section 20.1.7 of the Law on Civil Service, all civil servants were prohibited from exercising the right to strike. Recalling that States may restrict or prohibit the right to strike in the public service only for public servants exercising authority in the name of the State, the Committee had requested the Government to list specific categories of civil servants covered by the Law on Civil Service whose right to strike is thus prohibited. The Committee notes the Government's reference to the legislative provision outlining the definition of the term*

			"state body" and of its units as well as to section 20.1.7 of the Law on Civil Service. The Committee understands the Government's reply to mean that all civil servants are indeed prohibited from exercising the right to strike. The Committee notes section 14.2 of the Law on Civil Service which provides for the notion of a civil servant exercising authority in the name of the State and recalls that only this category of civil servants may be deprived of the right to strike. The Committee therefore requests the Government to take the necessary measures to amend section 20.1.7 of the Law on Civil Service accordingly and to provide all information on the measures taken or envisaged in this respect. **1996**: *In its previous comments, the Committee observed that certain provisions of the legislation then applicable contained important restrictions on the right of workers to participate in collective action, combined with severe sanctions. It notes the Government's indication to the effect that the Penal Code in force, section 188-3, governs participation in collective activities creating a public disturbance. The Committee notes that this provision contains important restrictions on the right of workers to participate in collective action aimed at disturbing transport operations, state or public institutions or undertakings, combined with severe sanctions, including sentences of imprisonment for up to three years. The Committee recalls its basic position that the right to strike is an intrinsic corollary of the right to organize protected by Convention No. 87. It considers that restrictions or prohibitions on the right to strike should be restricted to public servants exercising authority in the name of the State or in essential services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. It requests the Government to amend or repeal this provision where it could apply to strikes in public transport or state or public institutions or undertakings which are not essential services within the strict meaning of the term.* **1999**: *The Committee notes from the Government's report received in December 1997 that under article 36 of the Constitution of November 1995 everyone has the right to strike, and that strikes are temporarily regulated by the USSR Act concerning procedure for the settlement of collective labour disputes of May 1991 which has remained in force, while a new Act concerning collective labour disputes is currently being prepared.* *The Government explains that, in accordance with section 12 of the Act in force, strikes are not permitted in cases where this creates a threat to people's lives and health, as well as in railway enterprises or municipal transport including the metro, in civil aviation,*

			communications, power production, defence-related industries and enterprises, state bodies, organizations for the enforcement of law and order and the maintaining of national security, and enterprises engaged in continuous operations, the halting of which might entail serious and hazardous consequences. The Government adds that the participation in a legal strike, in accordance with section 13 of the Act, shall not be considered a breach of labour discipline and cannot entail the application of disciplinary or other measures provided for by law. ***As a result, the Government believes that the participants in strikes are sufficiently protected from the possibility of article 188-3 of the Criminal Code being applied to them.*** *While noting these explanations, the Committee notes that under the Act of 1991 (section 12),* ***strikes are forbidden in a number of enterprises and organizations which are not essential services in the strict sense of the term and in particular in railway enterprises, municipal transport including the metro and civil aviation, communications and power production****. The Committee observes moreover that nothing in the law prevents article 188-3 of the Criminal Code from being applied to strikes particularly in the transport sector, and in state and public institutions and undertakings.* *In its latest report received by the Office on 6 October 1998, the Government explains that a new Act on the Settlement of Collective Labour Disputes was adopted on 15 May 1998. Section 22 of the Act prohibits strikes in certain services related to security, health and life support, such as hospitals, power and water supply, communication, air control services and fire services. Certain provisions of previous legislation are no longer in force.* *The Committee notes this information with interest. It will examine the contents of the new law once it is translated. However, the Committee again requests the Government to amend or repeal article 188-3 of the Criminal Code so that it would not be applied to strikes in non-essential services.* **1999**: *With reference to its previous comments on the need to amend section 12 of the 1991 Act on strikes so as to restrict the cases where a strike may be declared illegal, the Committee notes the new Labour Code adopted on 1 July 1999. It notes with interest the provisions concerning the right to strike which define sectors qualified as essential services more restrictively, and provide for a compensatory mechanism to resolve collective disputes in sectors where strikes are prohibited (section 281 of the Labour Code).*

			The Committee nevertheless reiterates its previous comments on the need to expressly modify or repeal section 188-3 of the Criminal Code, which also contains major restrictions on the right of workers to engage in collective action with a view to disrupting public transport, associated with sanctions of up to three years' imprisonment. **2007**: *The Committee notes the Government's indication that according to section 281 of the Labour Code, strikes are prohibited in the railway and air transport sectors. In this connection, the Committee notes that section 233 of the Criminal Code penalizes strikes in public transport with penalties of up to three years of imprisonment. The Committee recalls that restrictions or prohibitions on the right to strike should be limited to essential services in the strict sense of the term, i.e. those the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee considers that public transport, including air and railway transport, are not essential services in the strict sense of the term. The Committee considers, however, that in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum service in services of public utility rather than impose an outright ban on strikes (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 160). The Committee therefore requests the Government to amend section 281 of the Labour Code and section 233 of the Criminal Code so as to ensure that workers of public transport, including those employed in air and railway transport, can exercise the right to strike, and to keep it informed of the measures taken or envisaged in this respect.*
113. Belarus	2010, 2011, 2022 (Observations)	Compliance with the right to strike	**2010:** *The Committee **further regrets** that **the Government has not provided any information** in relation to the measures taken to amend Presidential Decree No. 24 concerning the use of foreign gratuitous aid and sections 388, 390, 392 and 399 of the Labour Code, regarding the **exercise of the right to strike**. The Committee also once again notes with regret that aside from the general statement to the effect that a meeting of the tripartite working group took place on 15 October 2010 to discuss the conclusions of the Conference Committee and questions of further work on the improvement of the legislation, and that members of the group were requested to provide their views on further steps in this regard, there was no indication of concrete proposals to amend the*

			abovementioned pieces of legislation. Recalling that the abovementioned legislative texts (Law on Mass Activities, Decree No. 24 and sections 388, 390, 392 and 399 of the Labour Code) are not in conformity with the right of workers to organize their activities and programmes free from interference by the public authorities and ***their amendment had been requested by the Commission of Inquiry over six years ago, the Committee reiterates its previous requests*** *and requests the Government to indicate all concrete measures taken in this respect.* **2020:** ***The Committee notes the Government's indication that the right to strike is not expressly provided for in the Instrument of the ILO; rather, the ILO supervisory bodies derive the right to strike from Article 3 of Convention No. 87, despite the fact that the legality of this interpretation has been questioned by the Employers' Group on several occasions and that under Article 37 of the ILO Constitution, any question or dispute concerning the interpretation of conventions shall be referred to the International Court of Justice, the only body which has the right to interpret Conventions. [...] For the reasons expressed above, the Government disagrees with the calls of the Committee for the amendment of the legislation, in particular as regards section 388(4) of the Labour Code.***
114. Belgium	2006, 2007, 2009, 2010, 2011 (Observations) 2013, 2016, 2019, 2020, 2021 (Direct requests)	Restrictions on the right to strike - prior notice - minimum service - strike pickets - replacement of striking workers	**2006**: *The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU), of 10 August 2006, which refer, among other matters, to* ***reprisals for the right to strike in the automobile sector and other restrictions on the exercise of the right to strike in various sectors****, including a circular and a police order restricting strike pickets. In this respect, the Committee requests the Government to provide its observations on the comments of the ICFTU.* **2009**: *The Committee notes the comments of the International Trade Union Confederation (ITUC), dated 26 August 2009, concerning the increasingly systematic acts by employers of the judicial authorities to prohibit certain types of collective action by trade unions, and particularly the setting up of strike pickets. In the view of the ITUC, trade unions are not able to fully exercise their right to collective action since the informal agreement in 2002 between the social partners envisages that* ***referral of trade disputes to the court would only occur when conciliation procedures have been exhausted and certain courts still issue injunctions even before the commencement of collective***

			action**. The Committee requests the Government to provide its observations on the ITUC's comments.* **2011**: *The Committee notes the comments dated 4 August 2011 from the International Trade Union Confederation (ITUC) concerning the implementation of the Convention, in particular the systematic recourse by employers to the judicial authority to ban trade unions from taking industrial action, especially from setting up strike pickets. The ITUC denounces the employers' failure to respect the "Gentlemen's Agreement" concluded by the social partners in 2002 on the peaceful settlement of industrial disputes. The Committee recalls that, in its previous observation, it had noted comments on this same point made by the Confederation of Christian Trade Unions (CSC), the General Labour Federation of Belgium (FGTB) and the General Confederation of Liberal Trade Unions of Belgium (CGSLB) dated 21 December 2009. The Committee notes that in its reply, the Government expresses its full recognition of the right to industrial action, such as the **right to organize peaceful strike pickets**, which it considers inherent in the binding nature of international treaties ratified by Belgium. The Government states that it regrets that certain employers abuse their right of recourse to the judicial authority but indicates that the number of appeals is limited. Recalling the wide network of institutions for sectoral dialogue, conciliation offices and a professional body of social conciliators put in place by the public authorities, the Government also states that it has requested the National Labour Council to examine compliance with the "Gentlemen's Agreement" signed in 2002 by the social partners. T**he Committee requests the Government to report on the findings of its examination on compliance with the "Gentlemen's Agreement" concerning the peaceful settlement of industrial disputes, as well as on any follow-up. **2019**: *The Committee notes the allegations of the FGTB, CSC and CGSLB concerning the Act of 29 November 2017 on the continuity of rail transport service in the event of a strike, which establishes a procedure of declaration of intent prior to strikes for each member of staff in an operational occupational category considered to be essential. Under the Act, each employee concerned **must indicate whether or not they plan to strike at least 72 hours before the start of the day on which they are scheduled to work**. An **employee's statement may be amended with a minimum of 48 hours' notice if they decide to work, and a minimum of 72 hours' notice if they decide to participate in the strike that day**. The Committee notes the allegations by the trade union organizations that*

			the individual notice period of 72 hours constitutes a restriction on the right to strike that exposes the employees concerned to pressure from their head of service and their employer and is likely to result in the creation of employee "blacklists". They also criticize the 72-hour amendment period, which prevents employees from changing their mind at the last minute and deciding to participate in the strike. *The Committee also notes the allegations of the trade union organizations concerning the Act of 23 March 2019 on t***he organization of prison services and the prison staff regulations, which establish a similar procedure regarding the individual declaration of intent to strike.** *They note in this respect that staff members are required to indicate whether or not they plan to participate in the strike at least 72 hours before the start of a strike day. The statements may be amended with a minimum of 72 hours' notice for each striking day if certain workers change their minds and wish to strike on the strike day.* *The Committee notes the information provided by the Government in reply to these allegations. The Committee notes that, according to the Government, the Act of 29 November 2017 on the continuity of rail transport service does not restrict the right to strike and aims only to better ensure continuity of service. The Government indicates that no minimum service is established, and that no service will be provided if too great a number of employees choose to participate in the strike. Regarding possible pressure and potential "blacklists",* ***the Government emphasizes that employers already know which employees are striking, as they can observe it visually and have to take it into account for remuneration. It also argues that the notices are handled in a confidential manner and can even put additional pressure on employers during negotiations if, for example, a large number of employees declare their intention to participate in a strike.*** *While recalling the importance of social dialogue and the procedures that precede the giving of notice,* ***the Government also rejects the criticism regarding the length of the 72-hour notice period, noting that the Act only reproduces the notice period specified in the General Regulations on Trade Union Relations (RGRS 548) and that the unions have sufficient time to inform their members and convince them to participate in the strike.*** *Regarding the Act of 23 March 2019 on prison services, the Committee notes* ***the Government's indication that the Act aims to achieve and give effect to minimum standards in terms of human rights for detainees, and not to restrict the right to strike of the employees in these services.*** *The Committee notes that the procedure on the individual declaration of intent to strike is established in comparable terms, on the one hand, in the context of rail transport, which*

			*the Committee considers not to be an essential service in the strict sense of the term but rather a service of critical importance for which the establishment of a minimum service can be justified, and, on the other, in the context of prison services, which the Committee considers to be essential services in the strict sense of the term. Since the two Acts in question concern sectors for which the Committee considers that the exercise of the right to strike may give rise to restrictions that comply with the Convention, the Committee considers that the declaration of intent to strike, reproducing the same 72-hour notice period specified in the General Regulations on Trade Union Relations, can be justified in order to ensure that a minimum level of activity in the services in question is maintained. However, the Committee emphasizes the importance of ensuring that the implementation of such procedures, which could be used to weaken the collective action of workers and their organizations, does not result in any kind of interference in the actions carried out by the trade union organizations or in any form of pressure on potential strikers. I**n view of the above, the Committee requests the Government to provide information on the application in practice of the relevant provisions of these Acts.*** *Prison services. Minimum service. The Committee notes the allegations by the trade union organizations concerning the Act of 23 March 2019* ***establishing a minimum service and the possibility of using a system of requisitioning staff in the case of a strike that lasts longer than two days.*** *They indicate in particular that any disagreement concerning the negotiation of a minimum service should be resolved through an independent body, such as the judicial authorities, and not by the ministry concerned, but that under section 19 of the Act, if the competent advisory committee does not submit an operational plan in the three months following the entry into force of the Act, either because it has not taken a decision or because no agreement has been reached in the committee, the minister shall determine the services to be provided and the measures to be taken.* *The Committee notes the information provided by the Government in reply to these allegations. The Government indicates that the Act of 23 March 2019 uses the various recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and that* ***the Council of State has concluded that the restriction of the right to strike was proportional and fitting in view of the essential services that must be guaranteed to detainees****. The Council also emphasized that the trade unions were involved throughout the setting up of this minimum service. With particular regard to section 19 of the Act, the Government states that the trade union*

			organizations failed to indicate that, when the minister determines the services to be provided and the measures to be taken, he does so after consulting the competent advisory committee. In the Government's view, then, another opportunity for dialogue is provided for at the level of the High Advisory Committee. If no opinion in favour is issued by this Committee, the minister may then decide to amend the operational plan or continue without amendments, in accordance with the rules set out in the trade union constitution. This would require a new round of dialogue and consultations with the bodies and committees set up for this purpose. However, the Government recognizes that no provision has been made so far for an independent body to intervene at this stage of dialogue. While noting the consultation procedures established by law to ensure the maintenance of a minimum service, as referred to by the Government, the Committee nevertheless wishes to recall that it considers that any disagreement on minimum services should be resolved not by the government authorities but by a joint or independent body which has the confidence of the parties, responsible for examining quickly and without formalities the difficulties raised, and empowered to issue enforceable decisions (see the 2012 General Survey on the fundamental Conventions, paragraph 138). In view of the above, ***the Committee requests the Government to continue its efforts to establish an independent body for determining the minimum services to be provided in prison services in the event that the parties do not reach an agreement.*** *Picketing. The Committee notes the Government's indication that, further to the information provided by the Government on current jurisprudence, in December 2018 the European Committee of Social Rights considered that the situation of Belgium is currently in compliance with the European Social Charter and decided to end its examination of the follow-up to the decision.* **2023**: Prison services. Resolution of disputes. *In its previous comments, the Committee noted the allegations by the above-mentioned trade union organizations, according to which any dispute concerning the negotiation of a minimum service should be resolved through an independent body, such as the judicial authorities, and not by the ministry concerned, but that under section 19 of the Act of 23 March 2019 on the organization of prison services and prison staff, if the competent advisory committee does not submit an operational plan in the three months following the entry into force of the Act, either because it has not taken a decision or because no agreement has been reached in the committee, the minister shall determine the services to be provided and the measures to be*

			taken. The Committee noted the Government's observation that the minister intervened only as a last resort – that is, in the absence of an agreement arising from the various stages of consultation and dialogue. Noting the information provided by the Government to guarantee a minimum service, the Committee requested the Government to provide additional information on the compensatory guarantees or resolution mechanisms applicable in disputes in the prison services. The Committee notes that the Government refers in particular: (i) to the Royal Decree of 19 November 2019, which, pursuant to sections 15 and 16 of the Act of 23 March 2019, defines the consultation and negotiation procedures to be followed in the event of industrial disputes, with or without strike notice; and (ii) Memorandum of Understanding No. 351, concluded on 19 April 2010 within Sectoral Committee III Justice, relating to the mutual commitments of the Federal Public Service (SPF) Justice, the General Directorate of Prisons and the public trade unions representing the staff of the external services of prisons in the context of strengthening social dialogue and conflict management within the prison system. The Committee notes that the Memorandum of Understanding defines the modalities of dispute management and confirms the intention of the partners to resolve industrial disputes through social dialogue and, where appropriate, independent mediation. The Committee also notes the concern expressed by the trade union organizations regarding the inability of prison officials to effectively exercise their right to strike due to structural understaffing in prisons, as well as the Government's reply in this regard. While noting the information provided by the Government and the trade union organizations concerning the establishment of a minimum service, the Committee requests the Government to continue to provide information on the resolution mechanisms applicable in disputes in the prison services. *[...]* *The Committee notes the concerns raised by the FGTB, the CSC and the CGSLB regarding the possibility for employers to replace striking workers with students. The trade union organizations observe that, although they often support the enterprise's workers in their struggle, students have no choice but to agree to enterprises' requests to work during a staff strike, or risk not having their student contracts renewed. The Committee notes the Government's indication that on 1 June 2023, the Federal Minister of Labour submitted a draft legislative text to the social partners in the National Labour Council (CNT) for their opinion, prohibiting the replacement of striking workers by workers on student contracts. Taking due note of this initiative, **the Committee trusts that***

			the Government, in collaboration with the social partners, will soon be able to announce an end to the practice of replacing striking workers with workers on student contracts, which constitutes a serious obstacle to the exercise of the right to strike. *Increase in the number of orders issued upon ex parte applications. The above-mentioned trade union organizations allege an upsurge in the use of summary proceedings by employers to prevent strike pickets. They explain that: (i) during a recent industrial dispute concerning the franchising of a major chain's stores, a large number of ex parte applications were lodged by employers alleging a risk of assaults, and (ii) the urgent applications judges hearing the case declared the applications to be admissible and well-founded in several judicial districts in Brussels, Flanders and Wallonia, effectively depriving the workers of the right to set up picket lines. The trade union organizations observe that these decisions impose drastic general bans (some covering the whole of Belgium) on striking workers, who risk very heavy fines. They denounce the absence of a fair balance between the interests at stake, with the courts seizing, in their view, exorbitant power in the dispute, when the absolute necessity that can justify recourse to ex parte applications is of strict interpretation. Although some courts have set aside three orders, the trade union organizations believe that the number of unfavourable orders is on the rise.* *The Committee notes the Government's indications concerning the summary proceedings before the President of the Court of First Instance, reserved for cases of absolute necessity in which the opposing party is not summoned. The Government reports that: (i) there must be urgency, enabling the applicant to obtain an immediate protection order. Urgency cannot be understood as the "mere fear" of irreparable harm, but as the existence or threat of very serious harm. Urgency is assessed by the judge; (ii) the president may take measures that are not timebound; (iii) presidential orders are enforceable by operation of law. Neither appeals nor applications by third parties to set aside such orders suspend enforcement; (iv) they may be accompanied by a fine of 500 to 1,000 euros per person per offence; (v) an appeal may also be lodged against the order, by the applicants or intervening parties. A third party that has suffered harm as a result of the order may apply to have set it aside. On this point, the Government observes that the trade union organizations note that three courts have recently set aside three orders on the basis of applications by third parties. The Committee notes the information provided by both the Government and the trade union organizations. It notes that, according to the latter, the*

			use by certain employers of the ex parte application procedure is intended to prevent workers from exercising an essential aspect of the right to strike, namely picketing, whereas this application procedure is reserved for cases of absolute necessity which, as the Government confirms, is of strict interpretation. On the question of the presence, at the entry to the workplace, of strike pickets aimed at ensuring the success of the strike by persuading the workers concerned to stay away from work, the Committee wishes to recall that it considers that: (i) in so far as the strike remains peaceful, strike pickets and workplace occupations should be allowed. Restrictions on strike pickets and workplace occupations can only be accepted where the action ceases to be peaceful; and (ii) it is however necessary in all cases to guarantee respect for the freedom to work of non-striking workers and the right of the management to enter the premises (see the 2012 General Survey on the fundamental Conventions, paragraph 149). In view of the foregoing and observing that the allegations made by the trade union organizations concern recent events, ***the Committee requests the Government to provide information on the number and results of judicial decisions handed down under the ex parte application procedure, with regard to the issue of strike pickets.*** *The Committee requests the Government to indicate the amount of fines incurred, if applicable. The Committee also requests the Government to provide information on the number of appeals lodged and results of those appeals.*
115. Bosnia and Herzegovina	2002, 2003, 2004, 2005, 2006, 2007, 2009, 2011, 2013, 2016, 2019, 2020 2023 (Direct requests)	Essential services and strike suspension - minimum service – civil service – arbitration - majority required for calling a strike - compulsory arbitration - initiation of a strike	**2002**: *The Committee notes that section 134 of the Law on Labour Relations and Wages of Employees of Federal Administrative Bodies, 1998, establishes that workers shall be* ***ordered to interrupt a strike if the authorities consider that there is a serious threat to the provision of essential services which could give rise to an immediate danger or very serious repercussions for the life and safety of persons and the security of property, or other irreversible consequences****. Section 134 further provides that such interruption will be decided by common agreement between the strike committee and the chief of the administrative organ or service where the strike takes place.* ***The Committee asks the Government to provide information on the manner in which disagreements on interrupting a strike are resolved and to specify in particular whether there is a possibility of recourse to an independent body having the confidence of the parties concerned for a final determination.*** *Republika Srpska.*

			The Committee notes that sections 10 and 11 of the Law on Strike, 1998, authorize the employer to determine the minimum service and to assign workers to posts at least three days before the beginning of the strike, taking into consideration the opinion, suggestions and comments of the trade union. The Committee also notes that section 12(2) of the Law on Strike authorizes the competent public authority to secure the conditions for the provision of minimum service if the management fails to do so and to engage workers who are not employed by the enterprise if the minimum working process cannot be secured otherwise. The Committee is of the view that organizations of workers should be able, if they so wish, to ***participate along with the employers and the public authorities in defining the minimum service, which must be limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service****, the only possible exception being the case of essential services in the strict sense of the term, i.e. those the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee also notes that,* ***in case of disagreement, the minimum service should be defined by an independent body*** *(see General Survey, paragraph 161). The Committee requests that the Government take all necessary measures to amend the legislation so that workers may participate in the definition of the minimum service and so that an independent body may make the determination when the parties concerned cannot agree.* **2006**: *The Committee notes from the Government's report that the Law on Labour Relations and Wages of Employees of Federal Administrative Bodies, 1998, has been repealed with the adoption of the Law on Civil Service in the Federation of Bosnia and Herzegovina, which is not governing issues of organizing and leading strikes. Article 1 of the Law on Strikes of the Federation of Bosnia and Herzegovina provides for passing a separate law governing the issue of strikes in the army of the Federation of Bosnia and Herzegovina, members of law enforcement ministries, administration bodies and administration services in the Federation of Bosnia and Herzegovina. The separate law has not yet been passed. The Committee requests the Government to keep it informed of any new legislation adopted.* *Republika Srpska.* *In its previous comments, the Committee noted that sections 10 and 11 of the Law on Strikes, 1998, authorize the employer to determine the minimum service and to assign*

			workers to posts at least three days before the beginning of the strike, taking into consideration the opinion, suggestions and comments of the trade union. The Committee also noted that section 12(2) of the Law on Strikes authorizes the competent public authority to secure the conditions for the provision of minimum service if the management fails to do so and to engage workers who are not employed by the enterprise if the minimum working process cannot be secured otherwise. The Committee takes note of the Government's indication that activities have been undertaken in relation to amendments to the Law on Strikes in order to: (1) enable workers to define minimal services in the activities pertaining to the mentioned provisions; and (2) have an independent body that would decide in cases where the interested parties cannot agree. The Committee hopes that amendments will take place in the very near future and requests that the Government keep it informed in this regard. **2016**: *Bosnia and Herzegovina.* *Noting the adoption of the* ***Act on Strikes in the Institutions of Bosnia and Herzegovina****, the Committee requests the Government to provide information on the exact scope of its application and the nature of the public servants concerned.* *Bosnia and Herzegovina. The Committee observes that under section 15 of the new Act on Strikes in the Institutions of Bosnia and Herzegovina, the minimum services are determined by a decision of the Council of Ministers of Bosnia and Herzegovina on the basis of a previously submitted proposal of the employer who has obtained consent of the trade union, and that under section 26 of the Act, the determination of the minimum services is to be done within 90 days from the date of entry into force of the Act.* ***Recalling that trade unions should be able to participate in defining the minimum services along with the employers and the public authorities and that any disagreement among the parties should be resolved by a joint or independent body, the Committee requests the Government to provide information on the application of these provisions in practice, in particular, on the manner in which trade unions can participate in the determination of the minimum services and on the manner of resolution of any disputes in this regard****.* *Federation of Bosnia and Herzegovina. In its previous comments, while noting that collective agreements in force regulated the right to strike for employees of administrative bodies and judicial authorities, the Committee trusted that the Government would continue to provide information if and when legislative provisions were adopted on this*

			matter. The Committee notes the Government's indication that a special law regulating the issue of ***strikes in the civil service*** *has not been adopted but that the previously mentioned collective agreements regulate the right to strike and the conditions of work of trade unions. The Committee requests the Government to continue to provide information in this regard.* *[…]* *Republika Srpska. The Committee further requests the Government to clarify whether* ***arbitration under the RS Act on Peaceful Settlement of Labour Disputes is voluntary, based on the agreement of both parties, or whether it can be imposed by the authorities or at the request of one of the parties****. The Committee also requests the Government to provide a copy of the new RS Act on Peaceful Resolution of Labour Disputes once adopted.* *The Committee further notes that under section 4(1) and (2) of the RS Act on Strikes, the decision to begin a strike action or a warning strike may be taken by the authorized body of the relevant majority trade union or by more than 50 per cent of the workers of that employer or by another trade union which has the support of more than 50 per cent of the workers of the employer. Recalling that, if legislation establishes provisions which require a vote by workers before a strike can be held, it should* ***ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level, the Committee requests the Government to provide information on the application of this provision in practice.*** **2023**: *Institutions of Bosnia and Herzegovina. The Committee previously noted the adoption of the* ***Act on Strikes in the Institutions of Bosnia and Herzegovina*** *and requested the Government to provide information on the practical application of the law. The Committee notes the Government's indication that so far, there have been no strikes. The Government also reiterates that, under section 15 of the Act,* ***minimum services in case of a strike are determined by a decision of the Council of Ministers*** *of Bosnia and Herzegovina, made on the basis of a proposal from the employer with consent of the trade union. Observing that the decision on minimum services must be made within 90 days from the entry into force of the law, the Committee requests the Government to indicate whether such a decision was adopted and, if so, to share a copy thereof. The Committee also requests the Government to clarify whether the requirement to ensure minimum services during a strike applies to all employees in the Institutions of Bosnia and*

			Herzegovina or only to a specific category of public servants or services. ***Finally, recalling that any disagreement among the parties on the scope of the minimum service should be resolved by a joint or independent body, the Committee requests the Government once again to provide information in this regard.*** *The Committee further notes that the Labour Act in the Institutions of Bosnia and Herzegovina, 2004 (as amended up to 2022) s****tipulates that a strike in the Institutions of Bosnia and Herzegovina can be initiated by a representative union, defined as a trade union registered at the level of Bosnia and Herzegovina, or two or more trade unions acting jointly, whose membership consists of the majority of employees of one employer at the employer's headquarters*** *(sections 92 and 95). Observing that the Act on Strikes in the Institutions of Bosnia and Herzegovina does not seem to set a similar requirement, the Committee requests the Government to provide clarification on the relationship between these laws with regard to the regulation of the right to strike. The Committee also requests the Government to indicate whether trade unions which do not represent the majority of employees of an employer and are thus not representative within the definition of the law, benefit from all the rights granted by the Convention.* *Federation of Bosnia and Herzegovina. In its previous comments, having noted the Government's indication that a specific law governing the issue of strikes in administration bodies and services would be adopted in the Federation of Bosnia and Herzegovina, the Committee requested the Government to provide information on any legislative provisions adopted in this respect. The Committee notes the Government's indication that no legislation was adopted to regulate strikes, that until the final proposals on a new law are adopted, the Act on Strikes, 2000 remains in force and that there is no information on the numbers of initiated strikes and their categories. The Committee requests the Government to continue to provide information on any new legislation adopted in this respect in the Federation of Bosnia and Herzegovina.* *Act on strikes. Determination of minimum services. Republika Srpska. In its previous comment, the Committee requested the Government to amend section 12 of the RS Act on Strikes so as to allow trade unions to participate in defining minimum services. The Committee notes the Government's indication that no amendments were made to section 12 of the Act on Strikes concerning the determination of minimum services. The Committee therefore reiterates its request to amend this provision so as to allow trade unions, along with the employers and the public authorities, to participate in defining*

			minimum services and, in case of disagreement among the parties, to provide for a joint or independent body to determine them. The Committee also requests the Government to indicate instances in which the determination of minimum services was the subject of collective bargaining. *Act on strikes. Strike vote. Republika Srpska. The Committee previously requested the Government to revise the voting requirements for taking a decision to begin a strike action or a warning strike under section 4(1) and (2) of the RS Act on Strikes, referring in particular to the requirement that a decision should be taken by an absolute majority of all workers of the employer (the provision also provides that a strike can be declared by the authorized body of a representative union). The Committee recalled that if a country deems it appropriate to require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast (in other words, workers participating in the respective meeting as opposed to all workers of the employer) and that the required quorum and majority are fixed at a reasonable level, since the requirement of an absolute majority of all workers of an employer, as stated in the law, may be excessive. In the absence of a reply on this point, the Committee reiterates its previous request.* *Republika Srpska. The Committee previously requested the Government to provide information on activities or industrial sectors in which* ***compulsory arbitration could be imposed under sections 32 and 33 of the RS Act on Peaceful Settlement of Labour Disputes****. The Committee notes that the Government refers to section 11 of the RS Act on Strikes, 2008, which contains a list of activities of general interest, and activities in which the interruption of work due to the nature of the work could endanger human life and health or cause large-scale damage. The Government also mentions activities of importance for the functioning of public administration and security systems, as well as activities necessary for fulfilling obligations determined by international agreements in the cited activities. The Committee notes that while many of these activities correspond to essential services in the strict sense of the term, in which compulsory arbitration can be accepted, others do not fall within this category. Recalling that compulsory arbitration as a means to restrict the exercise of the right to strike should only be imposed in specific circumstances, such as in conflicts in essential services in the strict sense of the term, conflicts concerning public servants exercising authority in the name of the State or situations of acute national or local crisis (see the 2012 General Survey on the fundamental Conventions, paragraph 153),* ***the Committee requests the Government to***

			review and amend the applicable legal provisions to this effect, in consultation with the social partners. The Committee also once again requests the Government to provide clarification on the possible use of arbitration commissions under sections 34–36 of the RS Act on Strikes in case of interest disputes and whether this mechanism can lead to a binding arbitration at the request of one party.
116. Bulgaria	1998, 2000, 2002, 2003, 2005, 2007, 2009, 2010, 2011, 2012, 2013, 2014, 2016, 2019, 2020, 2023 (Observations) 1991, 1993, 1995, 1996, 1997, 2002, 2003, 2023 (Direct requests)	majority required for calling a strike - essential services and compensatory guarantees - notification of duration of a strike - public servants (**implemented in 2020)** - minimum services – right to strike for military personnel and teachers	**1991**: *The Committee notes with interest the Act of 6 March 1990 respecting the settlement of collective labour disputes which, under certain circumstances, authorises the calling of a strike after the failure of voluntary procedures for the settlement of disputes. The Committee, however, wishes to make a number of comments on the following points:* *1. With reference to section 11(2) of the Act, the Committee notes that the decision to go on strike must be made by the majority of all the workers in the respective enterprise or unit; the Committee draws the Government's attention to the fact that it would be* ***more appropriate for this decision to be taken by the majority of workers taking part in the vote.*** *It trusts that the Government will envisage modifying this provision in line with its comment.* *2. Noting that by virtue of section 11(3) of the Act,* ***notice of the intention to strike must specify its planned duration under pain of sanctions****, the Committee requests the Government to indicate what the consequences would be for striking workers and their organisations if the strike action continued beyond the duration mentioned in the strike notice.* *3. The Committee notes that by virtue of section 16(4) of the Act,* ***strikes are prohibited in the health, electricity and communications sectors****. The Committee has always insisted, in the case of strikes being prohibited in essential services, that the national legislation* ***should provide appropriate guarantees to protect workers who are thus denied one of the essential means of defending their occupational interests.*** *Restrictions should be offset by adequate, impartial and speedy conciliation and arbitration procedures, in which the parties concerned can take part at every stage (paragraph 214 of the 1983 General Survey on Freedom of Association and Collective Bargaining). The Committee requests the Government to indicate the procedures that are available to workers in these sectors to settle their terms and conditions of employment and their wages.* **2002**: *The Committee recalls that its previous comments concerned the need to amend section 11(2) of the Act of March 1990 regarding the settlement of collective labour disputes, which provides that the decision to strike shall be taken by a simple majority of*

			the workers of the enterprise or the unit concerned. The Committee has recalled in the past that account in a strike ballot should only be taken of the votes cast and that the quorum should be fixed at a reasonable level. It once again requests the Government to indicate in its next report the measures taken or envisaged to bring its legislation into full conformity with the Convention in this respect. Furthermore, the Committee notes that section 11(3) stipulates that the duration of the strike must be declared. In this regard, the Committee considers that forcing the employees and their organizations to specify the length of a strike would restrict the right of workers' organizations to organize their administration and activities and to formulate their programmes. The right to strike is effectively, by definition, a means of applying pressure which the workers and their organizations may use to promote and defend their social and economic interests and achieve satisfaction in their claims. ***The Committee therefore requests the Government to amend the legislation so as to eliminate the obligation to give notification of the duration of the strike, and asks it to include details in its next report on the measures taken in this connection.*** *As concerns the provision of compensatory guarantees for workers in the energy, communications and health sectors whose right to strike is denied, the Committee recalls that compensatory guarantee procedures should provide sufficient guarantees of impartiality and rapidity, arbitration awards should be binding on both parties and once issued should be implemented rapidly and fully. In this respect, the Committee takes due note of the creation, in March 2001, of the National Institute for Conciliation and Arbitration, which is not, however, yet functional. The Committee therefore requests the Government to indicate in its next report if the said institute is operational.* *As concerns the Civil Servant Act, the Committee had noted that section 47 of the Act restricted the right to strike to the carrying and placing of suitable signs and symbols, protest posters and armbands. It had thus recalled that* ***restrictions on the right to strike should be limited to public servants exercising authority in the name of the State****. In its latest report, the Government indicates that the Ministry of Labour has presented on 29 May 2002 a draft Bill amending and supplementing the Civil Servant Act, which would extend the right to strike to civil servants. The Committee notes that article 24 of the draft Bill amends section 47 of the current Act and would enable public servants not only to strike symbolically but also to discontinue their work effectively.* ***The Committee asks the Government to indicate, in its next report, the type of employees who will be covered by***

			this new law and trusts that the said draft Bill will be adopted soon. *It requests the Government to keep it informed of developments in this regard.* **2002:** *The Committee notes that, according to section 51 of the Act on Railway Transport of 2000, in case activities under Chapter 3 of the Act regarding the settlement of collective labour disputes are undertaken, workers and their employers are obliged to provide satisfactory transport services to the population, but not less than 50 per cent of the volume of transportation which was provided before the strike was undertaken. In this regard, the Committee recalls that since the establishment of a minimum service restricts one of the essential means of pressure available to workers to defend their economic and social interests, workers' organizations should be able to participate in defining such a service, along with employers and public authorities. The Committee considers that a legislatively set minimum requirement of 50 per cent of the volume of transportation may excessively restrict the right of railway workers to undertake industrial action.* ***It therefore requests the Government to indicate, in its next report, the measures taken or envisaged to amend this provision so as to ensure that workers' organizations may participate in negotiations on the definition and organization of a minimum service and that, where no agreement is possible, the matter will be referred to an independent body.*** **2005**: *As regards the requirements for exercising the right to strike, pursuant to section 11(2) and (3) of the Act of March 1990 on the settlement of collective labour disputes, the Committee asked the Government: (1) to indicate the measures taken or envisaged to amend section 11(2) of the Act of March 1990 to ensure that, in strike ballots, only the votes cast would be counted and the quorum would be fixed at a reasonable level; (2) to amend section 11(3) of the Act so as to eliminate the obligation to notify the duration of a strike. In its last report, the Government indicates that decisions for starting strikes must be adopted by an absolute majority of the votes cast and that the requisite quorum is half of "all workers". In order to be able to adequately assess this matter, the Committee asks the Government to indicate whether sections 11(2) and 11(3) of the Act of March 1990 on the settlement of collective labour disputes have been amended as advised by the Committee.* *With regard to negotiated minimum services, the Committee noted previously that, under section 51 of the Railway Transport Act of 2000, in the event of action under the*

			abovementioned Act regarding the settlement of collective labour disputes, workers and their employers must provide the population with satisfactory transport services of no less than 50 per cent of the volume of transportation that was provided before the strike. The Committee is of the view that, since the establishment of a minimum service restricts one of the essential means of pressure available to workers to defend their economic and social interests, ***workers' organizations should be able, if they so wish, to participate in establishing the minimum service, together with employers and the public authorities****. The Committee again points out that a minimum requirement of 50 per cent of the volume of transportation may considerably restrict the right of railway workers to undertake industrial action. Consequently, it* ***once again*** *asks the Government to* ***indicate in its next report the measures taken or envisaged to amend this provision in order to ensure that workers' organizations may participate in negotiations to determine and organize a minimum service and that, where no agreement is possible, the matter is referred to an independent body****.* *4. With regard to the provision of compensatory guarantees for workers in the energy, communications and health sectors whose right to strike is denied, the Committee noted the creation, in March 2001, of the National Institute for Conciliation and Arbitration. Since the Institute has been in operation since April 2003, the Committee again asks the Government to keep it informed of the use made of the machinery provided under the auspices of the Institute.* *With regard to the restricting of the exercise of the right to strike by civil servants, pursuant to section 47 of the Civil Servant Act, the Committee recalls that in its report for 2002 the Government indicated that the Ministry of Labour had submitted a Bill to amend and supplement the abovementioned Act and extend the right to strike to civil servants. The Committee noted that section 24 of the Bill was to amend section 47 of the current Act so as to enable public servants not only to strike symbolically but actually to discontinue their work. It also noted that under the Bill, a decision to go on strike should be taken by a majority vote by an assembly attended by more than half of the public servants concerned. In its report, the Government states that it is unable to report on progress on this point. The Committee expresses the firm hope that the Government will be in a position to indicate in its next report any measures adopted to guarantee effectively the right to strike of all civil servants who cannot be considered to be exercising authority in the name of the State, and to send any relevant bills or final texts.*

			2020: *The Committee recalls that for a number of years it had been raising the need to amend section 47 of the Civil Servants Act (CSA), which restricted the right to strike of public servants. The Committee takes note with satisfaction that section 47 of the CSA has been amended to recognize the right to strike of civil servants. The Committee notes that the Government indicates that: (i) the right is applicable to all civil servants with the exception of managing senior civil servants, that is those holding the positions of Secretary-General, Municipal Secretary, Director General of the Directorate-General, Director of a Directorate and Head of Inspectorate; and (ii) section 47 also provides that participation of civil servants in a legal strike is counted as official length of service, for the time during which they participate in a legal strike civil servants have a right to compensation, and it is explicitly prohibited to seek disciplinary action or liability for civil servants participating in a legal strike.* *The Committee further recalls its comments concerning the need to amend section 11(2) of the Collective Labour Disputes Settlement Act (CLDSA), which provides that the* ***decision to call a strike shall be taken by a simple majority*** *of the workers in the enterprise or the unit concerned; and section 11(3), which requires the* ***strike duration to be declared in advance****.* ***The Committee notes the Government's indication, on the requirement of support by a majority of the workers that: (i) the requirement is justified as it creates certainty that the objectives pursued by the strike are common for most of the workers and employees, and not just for a small part of them;*** *(ii) the CLDSA provides for the possibility that the simple majority is taken only by the workers and employees in a particular division of the enterprise; (iii) the CLDSA does not explicitly specify the manner in which the decision to strike should be taken, so that it is not necessary to bring all workers and employees together in one place at the same time; and (iv) workers and employees who have expressed their consent to strike are not bound by the obligation to participate in it and it is not uncommon in practice for the number of those effectively striking to be smaller than the number of workers and employees who have given their consent to the strike. While noting these explanations from the Government, the Committee must recall again that requiring a decision by over half of all the workers involved in the enterprise or unit in order to declare a strike is excessive and could unduly hinder the possibility of calling a strike, particularly in large enterprises, and that if a country deems it appropriate to require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast and that the required quorum and majority are fixed at a reasonable level (see the 2012 General Survey on the*

			fundamental Conventions, paragraph 147). ***As to the requirement to indicate the duration of the strike, the Committee notes that the Government indicates that: (i) prior notice of the duration of the strike is aimed at determining the period during which the parties make efforts to settle the dispute definitively through direct negotiation, mediation or any other appropriate means, and that the requirement seeks to encourage the parties to make every effort possible to resolve the dispute;*** *and (ii) the CLDSA does not restrict the right to strike, as it does not prohibit workers and employees from continuing their strike actions by making a decision to do so. In this respect, the Committee must recall once again that workers and their organizations should be able to call a strike for an indefinite period if they so wish without having to announce its duration. The Committee requests the Government to provide information on any developments concerning sections 11(2) and 11(3) of the CDLSA, and to indicate what are the requirements for continuing a strike action beyond its initially determined duration, in particular whether a new vote and decision by the workers concerned must take place, or whether instead a decision by the trade union calling the strike is enough.* *In its previous comments, the Committee has also been raising the need to amend section 51 of the Railway Transport Act (RTA), which provides that, where industrial action is taken under the Act, the workers and employers must provide the population with satisfactory transport services corresponding to no less than 50 per cent of the volume of transportation that was provided before the strike. The Committee welcomed the Government's indication that the Ministry of Labour and Social Policy recalled to* ***the Ministry of Transport, Information Technologies and Communications (MTITC)*** *the need for amendment of the aforementioned section 51 of the RTA in order to be in compliance with the Convention; and that the MTITC expressed readiness to take the necessary steps to amend the aforesaid section. The Committee notes that in its supplementary report the Government informs of a proposal to amend section 51 of the RTA submitted by the MTITC, which: (a) introduces a new paragraph 2 providing that workers, employers and railway authorities have to agree in the collective agreement which of the railway routes for passenger transport declared in the annual train schedule shall constitute the percentage under paragraph 1 (i.e. no less than 50 per cent), as well as the type and number of personnel required to carry out these services; (b) introduces a new paragraph 3, according to which in case of disagreement the parties may seek assistance for settlement of the dispute through mediation and/or voluntary arbitration by*

			the National Institute for Conciliation and Arbitration; but (c) maintains in paragraph 1 the obligation to provide no less than 50 per cent of the amount of transport services (to which it adds the precision that this will be in relation to the transport services "at the time" of taking strike actions). ***The MTITC notes*** *that section 51 has not been an obstacle for the exercise of the right to strike by employees of the national railway infrastructure company and its subsidiaries (referring to concrete examples of its use in 2011) and* ***defends the need for such provision by referring to the rights of passengers, arguing that they should be able to travel by rail transport regardless of the interests of the trade union organizations.*** *While welcoming that the draft amendment being considered provides for the participation of social partners in definition of the minimum services, as well as for a mechanism for the resolution of disputes when agreement cannot be reached, the Committee observes that it* ***does not fully address its previous comments****.* **2023**: *The Committee recalls that for a number of years it has been requesting the Government to amend section 11(2) of the Collective Labour Disputes Settlement Act (CLDSA), which provides that the decision to call a strike shall be taken by a simple majority of the workers in the enterprise concerned and section 11(3), which requires the strike duration to be declared in advance. In its previous comment, the Committee requested the Government to provide information on any developments concerning these provisions and to indicate what the requirements are for continuing a strike action beyond its initially determined duration.* ***The Committee notes the Government's indication that no changes were made to section 11(2) and (3) of the CLDSA*** *and that a change in the initial duration of a strike should be made in the same way as the strike decision, that is, by a decision of the workers. The Committee recalls once again that requiring a decision by over half of all the workers involved in the enterprise or unit in order to declare a strike is excessive and could unduly hinder the possibility of calling a strike, particularly in large enterprises, and that if a country deems it appropriate to require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast and that the required quorum and majority are fixed at a reasonable level (see the 2012 General Survey on the fundamental Conventions, paragraph 147). The Committee also recalls that workers and their organizations should be able to call a strike for an indefinite period if they so wish without having to announce its duration. In line with the above, the Committee requests the Government to take the necessary measures to amend section 11(2) and (3) of the CLDSA to ensure its full compliance with the Convention.*

			The Committee has also been raising the need to revise section 51 of the Railway Transport Act (RTA), which provides that, where industrial action is taken, satisfactory transport services must be provided to the population corresponding to no less than 50 per cent of the volume of transportation provided before the strike. [...] ***The Committee notes the Government's reiteration*** *that the current text of section 51 has not precluded the exercise of the right to strike by railway workers and* ***that the proposal of the Confederation of Labour Podkrepa to reduce the volume to 20 per cent would result in an inability to serve the rail transport needs of the population, even in a minimal volume****. The Government adds that the Ministry of Transport and Communications proposed a new amendment, which provides that the managers and the railway undertakings shall annually negotiate and agree on a list of trains which shall provide the required percentage of transport (not less than 50 per cent) and will include the list on the contract for access to and use of the railway infrastructure. The managers and railway undertakings shall subsequently agree with any representative organizations of their workers on the type and number of staff needed to carry out the required volume of transport.* ***The Committee observes that while the proposed amendment provides for the participation of the social partners in the definition of minimum services, it does not reduce the quantity of the service to be provided, which remains at no less than 50 per cent.*** *While taking note of the Government's concerns about providing sufficient railway transport services to the population, the Committee recalls once again that minimum service must be limited to the operations strictly necessary to meet the basic needs of the population or the minimum requirements of the service while maintaining the effectiveness of the pressure brought to bear by the strike. A minimum service that is as broad as no less than 50 per cent restricts one of the essential means of pressure available to workers to defend their economic and social interests. The Committee therefore once again requests the Government to revise section 51 of the RTA, in consultation with the most representative organizations, in order to ensure its compliance with the Convention. The Committee trusts that, through such consultations, a solution can be identified that will guarantee the right of workers' organizations to organize their activities through collective action while at the same time providing for transport services to meet the basic needs of the population or the minimum requirements of the service. The Committee requests the Government to provide information on all developments in this regard.*

			[...] The Committee observes from the Government's report that civilian employees in the military, including teachers in military academies and higher military schools, are not entitled to strike (sections 97(4) and 285 of the Defence and Armed Forces Act) and that trade unions of employees at the Ministry of Interior may proceed to carry out their chosen forms of protest actions, without their members interrupting their official duties (section 244(2) of the Ministry of Interior Act). Recalling that the right to strike can only be restricted in exceptional circumstances (essential services, public servants exercising authority in the name of the State or situations of acute national or local crisis), ***the Committee requests the Government to take the necessary measures, in consultation with the social partners, to ensure that organizations of workers that do not meet any of these exceptional circumstances, including civilian employees in the military and public servants in the Ministry of Interior (unless exercising authority in the name of the State) can, in law and in practice, exercise the right to strike as a means for furthering and defending the interests of their members.***
117. Croatia	1995, 2012, 2013, 2014, 2015, 2016, 2017, 2019, 2020, 2023 (Direct requests) 1998, 2000, 2007, 2009 (Observations)	Determination of minimum services – restriction of strike in certain services - minimum service - strikes of higher-level trade unions - minimum service – sanctions - general strikes - - - sanctions	**1995**: *The Committee observes that the Union of Autonomous Trade Unions of Croatia, referring to the Bill regulating the right to strike in public services and companies, complains that: (1) a strike may not be called in these sectors before completion of the compulsory mediation procedure; and (2) a strike may be held only if the employer agrees to the list of services and workers required for the maintenance of a minimum service. With regard to the first issue, the Committee considers that a reasonable period for mediation and conciliation before carrying out a strike is not contrary to the principles of freedom of association.* ***With regard to the second issue, the Committee observes that in the event of disagreement between the parties in determining the minimum service, the matter is decided by arbitration subject to the possibility of appeal.*** *The Committee considers that this is not inconsistent with the principles of freedom of association.* **1995**: *The Committee observes that the above organization's comments refer to certain provisions of the law* ***prohibiting or restricting the exercise of the right to strike in various sectors:*** *the* ***Defense Act prohibits strikes by military personnel and persons directly connected with combat preparations; the Internal Affairs Act prohibits strikes by workers in internal affairs if the strike would prevent the performance of the activities of the Internal Affairs Department; and the Electric Power Industry Act, the Croatian Railways Act, the Forests Act, the Roads Act and the Foundation of Public***

			Croatian Postal and Telecommunications Company Act, provide for a minimum service in the event of a strike. *In this connection the Committee notes the Government's statement that by means of special laws the right to strike in the military forces,* ***the police and certain public services has been restricted to an extent compatible with the continuation of activities needed for the maintenance of production and activities which are essential in order to prevent any danger to the life, health and safety of the population.*** *The Government also refers to the state of danger of immediate war prevailing in the country as a reason for restricting exercise of the right to strike in certain sectors connected with preparations for combat.* *The Committee notes that the ban on the exercise of the right to strike concerns only members of the armed forces and is not therefore inconsistent with the Convention. The Committee also observes that, as regards the other sectors, the legislation does not prohibit the exercise of the right to strike but provides for acceptable restrictions (minimum service) which are compatible with the application of the Convention.* *The Committee also observes that the comments of the Union of Autonomous Trade Unions of Croatia also refer to a Bill to regulate the right to strike in public services and companies. The Committee examines these comments, together with other matters relating to the application of the Convention, in a direct request addressed to the Government.* **1998**: *The Committee notes the recommendations of the Committee on Freedom of Association in Case No. 1923 (see 308th Report, paragraph 224) in which it requested the Government to amend the Croatian Railways Act of 1994, to* ***ensure that minimum services to be maintained during a strike are limited to operations that are strictly necessary to avoid endangering the life or normal living conditions of the whole or part of the population.*** *In this regard, the Committee notes with satisfaction that according to the information provided by the Government, a decision of the Constitutional Court of 15 July 1998 has invalidated the provisions restricting the right to strike in the railway and post and telecommunication sectors (article 23(4) of the Croatian Railways Act and article 16 of the Establishment of the Croatian Public Post and Telecommunication Enterprise Act). The provisions of the Croatian Railways Act relating to minimum services during a strike will, therefore, be submitted for amendment to the Croatian Parliament.* *The Committee had requested the Government to provide it with a copy of the Law on Civil Servants and Government Employees and on the Salaries of the Officials in Judicial*

			Bodies, as well as any text issued under the new Labour Law under the terms of article 237(1) which relates to freedom of association. The Committee notes with satisfaction that the Government has sent the collective agreement in force for civil servants which provides, amongst other things, for the right to strike of civil servants as well as solidarity strikes, and a copy of the Civil Servants and Government Employees and Holders of Judicial Functions Act, article 4 of which provides for the right to organize of civil servants. ***[….]*** *Articles 3 and 10. Finally, the Committee notes that the Government has not replied to the comments made by the Union of Autonomous Trade Unions of Croatia and the Croatian Associations of Unions concerning two decisions of the Supreme Court of the Republic of Croatia of 15 May 1996 and 11 July 1996. In these decisions, the Court, referring to article 209 of the Labour Law, declared that strikes for the purpose of protesting against unpaid salaries were unlawful. The Court stated that such strikes did not meet the prerequisites for a strike to be legitimate as regards its purpose. In this respect, the Committee recalls the conclusions of the Committee on Freedom of Association in its 304th Report (paragraph 216) in a case relating to similar issues in the Republic of Congo, where it considered that protest strikes in a situation where workers have for many months not been paid their salaries are legitimate trade union activities and thus, called for the withdrawal of all anti-union reprisals against the strikers, in particular dismissals. The Committee concurs with this opinion and asks the Government to take into consideration the importance it attaches to this principle and to send its observations in its next report on any measures taken in this regard.* **2017**: *In its previous comment, the Committee had also requested the Government to provide comments on the 2015 ITUC allegations, according to which the new Labour Act does not appear to recognize the* ***right to strike of higher-level trade union organizations****. The Committee notes that, according to the Government, this allegation is incorrect, as, pursuant to section 205 of the Labour Act, the right to call and undertake a strike in the event of a dispute related to the conclusion, amendment and renewal of a collective agreement, is given to trade unions determined, under specific provisions, as representative for the purposes of collective bargaining, which have negotiated the collective agreement. In this regard, section 4(4) of the Act on Trade Unions and Employers' Associations' Representativeness, 2014 specifies that representative higher-*

			level trade unions participating in tripartite bodies at the national level have the right to participate in collective bargaining covering employees who work for employers who are members of a higher-level employer organization. The Government thus affirms that since higher-level organizations can bargain collectively, they are entitled to call a strike in the event of a dispute related to the conclusion, amendment or renewal of a collective agreement which they have negotiated. The Committee also observes that, under section 168 of the Labour Act, federations and other forms of higher-level associations enjoy all the rights and freedoms granted to associations, which would also imply the right to strike. The Committee requests the Government to provide information on the application in practice of section 205(2) of the Labour Act with regard to higher-level trade unions, and to indicate, in particular, whether any industrial action has been carried out by or with the participation of higher-level organizations, and whether any such industrial actions have been questioned or challenged by the Government. *The Committee also notes that section 214(1) of the Labour Act provides that upon a proposal by the employer, the trade union and the employer shall prepare and adopt an agreement on the rules applicable to maintenance of production activities and essential activities, which must not be stopped during a strike or lockout. The Committee recalls in this regard that the maintenance of minimum negotiated services in the event of strikes should only be possible in essential services in the strict sense of the term, in services in which strikes of certain magnitude and duration could cause acute crisis threatening the normal conditions of existence of the population or in public services of fundamental importance.* ***The Committee requests the Government to clarify whether an agreement on the maintenance of certain minimum activities during a strike or lockout under section 214 of the Labour Act must be established in all public and private enterprises and, if that is the case, to take the necessary measures to review this provision so as to ensure that minimum negotiated service is only used in the above-enumerated situations.*** *The Committee further notes that section 107 of the Labour Act provides for a worker's liability to indemnify the employer, if the worker, either intentionally or due to gross negligence, causes the employer to suffer damage at the workplace or in relation to work. Observing the broad wording of section 107, the Committee recalls that in the context of industrial actions,* ***sanctions should only be imposed on workers in case of abuses while***

			exercising the right to strike, such as deliberate injury or damage deliberately caused to property. *The Committee requests the Government to take the necessary measures to ensure that section 107 of the Labour Act is not misused to punish the lawful exercise of the right to strike.* **2023**: *The Committee notes the NHS allegation that, in relation to disputes on the conclusion, amendment and renewal of a collective agreement, only representative trade unions that negotiated the collective agreement can call and undertake a strike, leaving aside unions which are not representative, which have not participated in collective bargaining or which obtained their representative status after the conclusion of the collective agreement (section 205(2) of the Labour Act). The Committee observes, however, that, besides strikes in relation to collective agreements, section 205(1) and (5) of the Labour Act allow trade unions, irrespective of their representativity, to call a strike in order to protect and promote the economic and social interests of their members, in case of non-payment of remuneration or compensation and in case of solidarity strikes. The Committee further notes the NHS allegation that the Labour Act does not recognize the right to strike for higher-level trade unions (confederations) and that there is* ***no legal framework for organizing and undertaking a general strike.*** *The Committee observes, however, that, in line with section 168 of the Act, higher-level associations enjoy all rights and freedoms guaranteed to associations. The Committee therefore trusts that the right to strike, as an essential means for trade unions to defend the interests of their members, can be exercised by organizations at all levels, including higher-level workers' organizations. Noting that the legislative protection exists to some extent, the Committee requests the Government to clarify the scope of the right to strike under law and to provide information on the exercise of the right to strike in practice, responding in the context of the NHS allegations.* **2007**: *The Committee notes the comments on the application of the Convention submitted by the International Trade Union Confederation (ITUC) in a communication dated 28 August 2007, which concern obstacles to the deduction of trade union dues,* ***sanctions against strikers in the power, chemistry and non-metal sectors***. *The Committee requests the Government to provide its observations thereon, as well as on the ICFTU's previous allegation of obstacles to the exercise of trade union rights by organizations in the commercial sector.*

118. Cyprus	1991, 1992, 1995, 1996, 1997, 1998, 2000, 2002, 2003, 2005, 2006, 2007 (Observations)	Essential services (**implemented in 2007**)	**1989**: *The Committee notes from the Government's report that during the period under review the Government has had recourse to the Defence Regulations 79A and 79B, which allow prohibition of strikes in services declared essential by the Council of Ministers, to put an end to strikes and lock-outs in the banking sector. The Government adds that recourse to said Regulations was considered necessary and consistent with article 27 of the Cyprus Constitution.* *The Committee recalls once more, as it did in its last direct request, that* ***the right to strike may only be prohibited or restricted in the public service (that is to say, as regards public servants acting in their capacity as agents of the public authority) or in essential services in the strict sense of the term, that is those services whose interruption would endanger the life, personal safety or health of the whole or part of the population.*** *The Committee trusts that the Government will give due consideration to these principles in any future application of the Regulations in question.* *In addition, it requests the Government to supply details of any future instances in which strikes may be prohibited or brought to an end by invoking these Regulations.*
119. Czechia	1996, 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2009, 2010, 2011, 2013, 2016, 2019, 2023 (Direct requests) 2007 (Observation)	majority required for calling a strike	**1996**: *Furthermore, the Committee notes that in order to call a strike, section 17 of the 1990 Act on collective bargaining requires the* ***vote of half the workers in the enterprise to whom the agreement at the enterprise level applies or the vote of half the workers to whom the higher level collective agreement applies****. The Committee is of the view that account should be taken only of the votes cast, and that the required quorum and majority should be fixed at a reasonable level (see 1994 General Survey on freedom of association and collective bargaining, paragraph 170).* **2007**: *The Committee's previous comments concerned the need to amend section 17 of the Act on Collective Bargaining so as to ensure that balloting for industrial action only takes account of the votes cast and that the required quorum and majority are fixed at a reasonable level. The Committee notes from the Government's report that* ***as a result of recent amendments, section 17 of the Act on collective bargaining, which deals with the right to strike, establishes a majority requirement of two-thirds of the votes cast, subject to a quorum requirement of 50 per cent of the employees concerned by the agreement****.* *The Committee recalls that although the requirement of a strike ballot does not, in principle, raise problems of compatibility with the Convention, the ballot method, the quorum and the majority should not be such that the exercise of the right to strike*

			becomes very difficult, or even impossible in practice. If a member State deems it appropriate to establish in its legislation provisions which require a vote by workers before a strike can be held, it should ensure that the required majority is fixed at a reasonable level. ***The Committee considers that the requirement of a two-thirds majority exceeds such a reasonable level. The Committee requests the Government to indicate in its next report any measures taken or contemplated so as to ensure that the required majority for the staging of strikes is lowered to a reasonable level.*** **2010**: *The Committee's previous comments concerned the need to ensure that balloting for industrial action only takes account of the votes cast and that the required quorum and majority are fixed at a reasonable level. The Committee noted that as a result of amendments, section 17 of the Act on Collective Bargaining (Act 2/1991), which deals with the right to strike, established a majority requirement of two-thirds of the votes cast, subject to a quorum requirement of 50 per cent of the employees concerned by the agreement.* ***The Committee notes that the Government indicates in its report that it considers the condition of consent of a least two-thirds of the voters to be reasonable since a strike is a serious and ultimate measure, and adds that it is necessary to prevent a strike to be declared by a small number of workers which would imply that the majority of workers – who would prefer to continue the negotiations – is submitted to the decision of a minority, given the serious economic consequences and impact on workers a strike can have****.* **2019**: *In its previous comment the Committee trusted that the Government will take the necessary measures to amend section 17 of the Act on Collective Bargaining to reduce the required super-majority of votes cast in order to hold a strike and requested the Government to inform it of any developments in this regard. The Committee also encouraged the Government to continue its efforts to bring the social partners together for the purpose of legislatively regulating the right to strike in situations other than disputes regarding the conclusion of collective agreements and to provide information on any steps taken or envisaged in this respect.* ***The Committee notes that the Government****: (i) indicates that the possibility of a new legislation for strikes outside the collective bargaining procedure was discussed at the meeting of the Working Team for Cooperation with ILO of the Council of Economic and Social Agreement on May 2019 and that both worker and employer representatives agreed that no such provisions were currently*

			needed; ***(ii) considers that the voting requirements depend on national conditions and that the current threshold (two thirds of those participating in the vote, with a quorum of at least one half of all the employees, and which was initially set by agreement between employers and employees) does not unduly restrict the right to strike;*** *(iii) informs that at the above-mentioned May 2019 tripartite meeting the employers agreed with the Government's view, but the workers concurred with the opinion of the Committee. The Committee reiterates its previous recommendations and, trusting that these matters will continue being reviewed in a tripartite manner, requests the Government to provide information on any developments in this regard.* **2023**: *The Committee also recalled the need to amend section 17 of the Act on Collective Bargaining to reduce the required super-majority threshold to hold a strike (two thirds of those participating in the vote, with a quorum of at least one half of all the employees). It also invited the Government to bring the social partners together for the purpose of legislatively regulating the right to strike in situations other than disputes regarding the conclusion of collective bargaining agreements.* Noting that the Government does not provide any information in this regard, the Committee reiterates its previous request. **2007**: *The Committee recalls that its previous comments concerned the need to amend section 17 of the Act on collective bargaining so as to ensure that balloting for industrial action only takes account of the votes cast and that the required quorum and majority are fixed at a reasonable level.* *The Committee notes with interest from the report of the Government that section 17 of the Act on collective bargaining, which deals with the right to strike, has recently been amended so as to lift the obligation to submit the names of the employees who will participate in the strike and ensure that balloting for industrial action only takes account of the votes cast, subject to a quorum requirement of 50 per cent of employees concerned by the agreement.*
120. Denmark	1989, 1991 (Observations)	Restriction on the right to strike - Right to strike of teachers - public servants - right to strike in	**1989:** *The Committee regrets that, despite its comments made over recent years on such interventions, the Government has again resorted to statutory prohibitions of strikes in a number of sectors and, in addition, to interference in current collective agreements for certain Danish-flag ships. It recalls, as does the Committee on Freedom of Association, that recourse to strike action is one of the essential means available to workers and their*

	1998, 2000, 2002, 2003, 2006, 2007, 2009, 2011, 2013 (Direct requests)	particular sectors - right to strike of seafarers not resident in Denmark	*organisations for the promotion and defence of their occupational interests and that* ***restrictions on strikes should be limited to public servants acting in their capacity as agents of the public authority or to workers in essential services, namely those whose interruption could endanger the life, personal safety or health of the whole or part of the population.*** *The Committee considers that several of the sectors involved in the various legislative interventions do not meet this criterion.* *Observing that negotiations in a few sectors are to open in the spring of 1989, the Committee expresses the hope that the Government will remove the prohibition of strikes in those fields which are not essential in the strict sense of the term.* **2000**: *With reference to its previous comments concerning the need to take measures so as to ensure that* ***public servants who are not exercising authority in the name of the State, such as teachers, are not penalized for having exercised strike action,*** *the Committee notes from the Government's report that discussions have been undertaken with the local authority employers as well as with various organizations on the matter, including on the content of possible legislation. According to the Government's report, the discussions were postponed at the request of the organizations, including the Federation of Salaried Employees' and Public Servants' Organizations, but the Government expects the discussions to be resumed shortly. The Government adds that the number of teachers employed as public servants continues to decline, given that all new recruitments take place on contractual terms. Recalling its position that the prohibition of strikes by public servants other than those exercising authority in the name of the State may constitute a considerable restriction of the potential activities of trade unions counter to Article 8, paragraph 2, of the Convention, the Committee requests the Government to keep it informed of the progress made to ensure that all teachers, regardless of their classification as public servants, may exercise strike action without penalty.* *The Committee further notes the conclusions of the Committee on Freedom of Association in Case No. 1971 (316th Report, approved by the Governing Body at its 275th Session (June 1999)). In this case, the Committee on Freedom of Association had noted that section 12 of the Conciliation Act may have a negative impact on the possibility of a workers' organization to exercise the right to strike in so far as it may be bound by a labour market decision to accept an overall draft settlement to which a collective agreement concerning their sector has been linked. The Committee recalls that, by virtue of Articles 3, 8 and 10 of the Convention, workers' organizations should have the right to*

			organize their activities and to formulate their programmes for the purposes of furthering and defending the interests of their members, including the possibility to exercise industrial action. Noting (from Case No. 1971) that section 12 of the Conciliation Act has been used on a number of occasions so as to restrict this right, the Committee requests the Government to take the necessary steps to amend its legislation so as to ensure that the view of the majority of workers in a given sector is not subordinated to the view of the majority of the entire labour market as concerns the possibility of undertaking industrial action. It requests the Government to keep it informed of the progress made in this respect. **2003**: *In its previous comments, the Committee requested the Government to keep it informed of the progress made to ensure that all teachers, regardless of their classification as public servants, may exercise strike action without penalty. The Committee notes that the Government indicates in its report that the Ministry of Finance published a circular on the employment of public servants which entered into force on 1 January 2001. The circular contains some transitional arrangements under which the persons employed under a public servant status before 1 January 2001 are entitled to maintain this status, to a certain extent, even if they do not fall within the categories of employees who will, henceforth, be covered by the public servant status. Once the employees benefiting from the transitional arrangements will have retired, public servants will be limited to those who are exercising authority in the name of the State, that is public employees who can be deprived of the exercise of the right to strike. The Government adds that the Central Organizations' Joint Committee (CFU), the Association of Local Government Employees' Organizations (KTO) and the Salaried Employees' and Civil Servants' Confederation (FTF) have declared that they will not take any further action in this matter, including with the ILO.* *The Committee recalls that the same question was examined by the Committee on Freedom of Association following a complaint lodged by the Danish Union of Teachers (DUT) and the Salaried Employees' and Civil Servants' Confederation (FTF) (Case No. 1950). At that time, the Committee had recalled that the right to strike could only be restricted or prohibited in: (1) the public service, only for public servants exercising authority in the name of the State; or (2) in essential services in the strict sense of the term (that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population). Like the Committee on Freedom of Association, this Committee considers that workers in education are not an essential*

			service in the strict sense of the term, nor are they public servants exercising authority in the name of the State. The Committee has duly noted that, under the transitional arrangements provided for in the circular, the workers concerned have been given the choice to maintain their status of public servant with the accompanying advantages, but are also being deprived of the right to strike because of this status; or to fall outside this status, thus enjoying the right to strike. In this respect, the Committee would like to recall that no one should be penalized for carrying out or attempting to carry out a legitimate strike, and that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association recalled above (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 176). Therefore, the Committee requests the Government to continue to keep it informed of the steps that may be envisaged, so that teachers who have chosen to keep their status as public employees may have recourse to strike action without the risk of being sanctioned. The Committee would also be grateful if the Government could indicate how many teachers have chosen to retain their status of public servant and how many teachers exist overall in the workforce. It further requests the Government to provide a copy of the circular mentioned in its report and to specify the categories of employees considered to be exercising authority in the name of the State, and to whom the status of public servant will henceforth apply, along with the restrictions concerning strike action. Further, in its previous comments and in light of Case No. 1971 examined by the Committee on Freedom of Association, the Committee noted that section 12 of the Conciliation Act might have a negative impact on the possibility of workers' organizations to exercise the right to strike, in so far as they might be bound by a labour market decision to accept an overall draft settlement to which a collective agreement concerning their sector had been linked. Recalling that by virtue of Articles 3, 8 and 10 of the Convention, workers' organizations should have the right to organize their activities and to formulate their programmes for the purposes of furthering and defending the interests of their members, including the possibility to exercise industrial action, the Committee requested the Government to take the necessary steps to amend its legislation so as to ensure that the view of the majority of workers in a given sector is not subordinated to the view of the majority of the entire labour market as concerns the possibility of undertaking industrial action. *The Committee notes the indication in the Government's report that the question has been taken up in the permanent ILO committee in the country and that the parties are presently*

			reviewing it. The Committee hopes that, following the tripartite discussions, the necessary steps will be taken to amend section 12 of the Conciliation Act for the reasons recalled above. The Committee requests the Government to keep it informed of any progress made in this regard. *Finally, the Committee notes the information provided by the Government on the introduction of a new structure of collective negotiations and agreements in the financial sector which enables the social partners concerned to depart from the agreements negotiated at the central level and conclude an agreement applicable to the company. The Government indicates that there is no right to strike linked to the negotiations of the original company agreement and to its renewal.* ***If the parties fail to reach an agreement, the matter should be referred to mediation and arbitration.*** *The exercise of the right to strike remains in respect of the renewal of the collective agreements negotiated at the central level. The Committee requests the Government to specify the source of the restriction to the right to strike concerning the negotiation or renewal of company agreements and, in particular, whether it results from an agreement between the parties concerned. It also requests the Government to provide samples of company collective agreements and of any provisions governing recourse to industrial action, with its next report.* **2013:** *In several previous direct requests, the Committee requested the Government to provide information on the progress made to ensure that all teachers, regardless of their classification as public servants, may engage in a strike action without penalty.* ***The Committee notes that the Government reiterates in its report that civil servants in Denmark have favourable conditions of employment including a favourable pension scheme, and that giving teachers the right to strike would require a major change of the system so as to maintain the balance of the total set of employment conditions for civil servants, which does not seem expedient, since the employment of teachers as civil servants was discontinued in 1993 for new appointments and the number of teachers employed under the Civil Servant Act is continuously decreasing due to retirement (at present 10,684 teachers are employed as civil servants; in six years, this group is expected to include approximately 2,500 persons and will eventually become extinct).*** *Recalling that the right to strike may be restricted or even prohibited in the case of public servants exercising authority in the name of the State, and that teachers are not included in this category, the Committee, taking into account that the category of teachers*

			employed as civil servants is steadily decreasing and will eventually become extinct, hopes that the Government will take the necessary steps to ensure that no sanctions are imposed in practice against teachers with civil servant status who have recourse to strike action. **2023**: *The Committee previously invited the Government, in consultation with the social partners concerned, to consider any additional measures to clarify that seafarers not resident in Denmark but working on board Danish International Register of Shipping (DIS) ships may fully exercise their right to organize, including the right to become members of a Danish trade union that can represent them on matters originating from Danish legislation even if not party to the Danish International Ships Register Main Agreement (DIS Main Agreement). The Committee notes that the Government once again reiterates that the law does not prevent a seafarer from becoming a member of a trade union, Danish or foreign, and therefore a non-Danish seafarer employed on DIS ships can join and be represented by a Danish union. The Committee further notes that according to the FH, the legislation in force is insufficient. The FH points out that its criticism is with regard to article 10 of the DIS Act and its division of negotiating powers to Danish and foreign seafarers, which creates a labour law vacuum: for instance, industrial disputes involving ships manned by seafarers not resident in Denmark are illegal, as the seafarers are not covered by a collective agreement concluded in Denmark. The Committee* regrets *the absence of sufficient engagement with the social partners on the matters raised in its prior comments. Accordingly, the Committee reiterates its previous request and expects the Government to provide detailed information on the outcome of tripartite consultations aimed at considering additional measures to ensure that seafarers not resident in Denmark but working on board DIS ships may fully exercise their right to organize, including the right to become members of a Danish trade union that can represent them on matters originating from Danish legislation, even if not party to the DIS Main Agreement, and the right to strike.*
121. Estonia	1996, 1998, 2002, 2003, 2005, 2007, 2008, 2016, 2019 (Direct requests)	Essential services - right to strike of seafarers and public servants - minimum services	**2005**: *The Committee had previously asked the Government to supply the **list of essential services** and the amendments to the Collective Labour Disputes Resolutions Act. It had further requested that the Government indicate whether seafarers were able to exercise the right to strike when vessels were docked. The Committee notes the Government's statement that the Ministry of Social Affairs had prepared a bill amending the procedure for resolving collective labour disputes, which banned **strikes in the public***

	2000, 2006, 2009, 2011, 2013 (Observations)		***sector*** *and had submitted it to the Government. The bill prohibits strikes in the public sector only with regard to those higher state and government officials who exercise power in the name of the State (heads of the state agencies and heads of the local government agencies and their deputies, assistant ministers, secretaries-general, director-general of the state chancellery, county secretary, state conciliator, gender equality commissioner, judges and prosecutors), as well as with regard to prison officers, police officers, people in the active service of the defence forces, people posted to the Estonia's representations and officials of security authorities. The bill provides for limitations on the right to strike, although not prohibiting strikes altogether, so as to ensure a minimum service in the services which include emergency medical aid, supply of electricity, heating and water services, air and railway traffic control, emergency services, etc. The Government points out that the list does not include ships at sea. According to the bill, the conditions for* ***providing minimum services*** *shall be determined in the presence of three parties – the representative of the Government and both parties to the labour dispute. If they fail to come to an agreement, a state conciliator shall process the issue. Should they fail to reach an agreement, the initiator of the strike shall have the right to appeal to court. Noting the Government's indication that the amendments will be adopted in the end of 2005, the Committee requests the Government to provide the copy of the legislative text with its next report.* **2019**: Article 3 of the Convention. Right of organizations to organize their activities. *The Committee recalls that for a number of years, it has been requesting the Government to provide information on the progress achieved with regard to the adoption of a list of services where the right to strike will be restricted (through a minimum service), as referred to in section 21(3) and (4) of the Collective Labour Dispute Resolution Act. The Committee notes the Government's indication that while there have been no new developments in this regard during the reporting period, the Basic Principles of the Government Coalition between the Estonian Centre Party, the Estonian Conservative People's Party and the Isamaa Party for 2019–23 sets out to elaborate the principles for the organization of strikes and negotiations for the purpose of improving the regulation of employees' and employers' rights and obligations.* The Committee therefore reiterates its request and expresses the hope that the Government's next report will contain information on the progress achieved in this respect. The Committee once again requests the

			Government to provide information on the application of section 21(3) and (4) of the Collective Labour Dispute Resolution Act in practice. **2000**: *In regard to seafarers' right to strike, the Committee takes due note of the information supplied by the Government in its report to the effect that section 21(2) of the collective labour dispute resolution Act does not prohibit* ***seafarers from striking****. The Government states that when they are docked, they have the right to strike. The Committee requests the Government to send it a copy of the draft Maritime Service Act governing labour relations of seafarers mentioned in its report.* *In regard to* ***minimum service*** *in the event of a strike (section 21(4) of the Act on the resolution of collective disputes), the Government states that a list of these services will be submitted to the Cabinet of Ministers in 2001. The Committee recalls that a minimum service must be limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of service, while maintaining the effectiveness of the pressure brought to bear by a strike. In addition, workers' organizations should be able to participate in defining minimum services, along with employers and the public authorities (see 1994 General Survey on freedom of association and collective bargaining, paragraphs 161 and 162). The Committee requests the Government to supply a list of these services once it has been adopted to enable it to examine compatibility with the principles of freedom of association.* **2013**: *The Committee recalls that for a number of years it has been raising the issue of the* ***prohibition of the right to strike in the public service****. In this respect, it notes with interest the adoption of the Civil Service Act in June 2012, which appears through sections 7 and 15 to restrict this ban to public servants exercising authority in the name of the State.* *The Committee had previously requested the Government to indicate the progress achieved in respect of the adoption of the list of services where the right to strike will be restricted (through a minimum service) as referred to in section 23(3) and (4) of the Collective Labour Dispute Resolution Act. The Committee notes the Government's indication that the Ministry of Social Affairs has prepared the first version (working document) of the draft Collective Bargaining and Collective Labour Dispute Resolution Act. The Government hopes that the Act will be adopted in 2014 and that it will resolve the issues raised by the Committee. The Committee welcomes the information provided by*

			the Government and hopes that the new Act will be adopted in the near future. It requests the Government to provide a copy thereof once it is adopted.
122. Finland	2002, 2003, 2005, 2023 (Direct requests)	Public servants - restrictions of the right to strike in practice	**2005**: *The Committee takes note of the Government's report as well as the comments made by the Confederation of Finnish Industries (EK), the Central Organization of Finnish Trade Unions (SAK), the State Employers' Office (VTML) and the Commission for Local Authority Employers (KT) with regard to the possibility of civil servants, municipal and church officials carrying out strikes.* *The Committee notes, in particular, that the SAK criticizes yet again (as in 2002 and 2003) the fact that* ***the right to take industrial action of civil servants, municipal and church officials who do not exercise authority in the name of the State, is too restricted by collective agreement legislation****. The Committee also notes that the KT reiterates previous comments to the effect that civil servants in municipalities are only those who exercise tasks involving public authority as a result of section 2 of the Act on Municipal Office Holders (304/2003) and section 44 of the Local Government Act (365/1995) as amended by the Civil Servants Act. The Committee also notes the comments made by the VTML to the effect that since the public sector restructuring of the 1990s, a public law employment relationship is mainly reserved to personnel whose tasks include direct use of public authority; restrictions on the right to strike of civil servants based on the Act on Collective Agreements for Civil Servants are essential in the public interest for the uninterrupted continuity of Government operations, for protecting the citizens' constitutional rights and for addressing their basic needs.* *The Committee takes note of this information. In the absence of specific information on any categories of public servants who do not exercise authority in the name of the State, the Committee can only recall that a broad definition of the concept of public servant would lead to a very wide restriction or even a prohibition of the right to strike for these workers, and that t****he prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State*** *(General Survey of 1994 on freedom of association and collective bargaining, paragraph 158).* **2023**: *The Committee notes the observations of the Central Organization of Finnish Trade Unions (SAK), the Finnish Confederation of Salaried Employees (STTK), the Federation of Finnish Enterprises (SY) and the Confederation of Finnish Industries (EK), submitted with the Government's report. The Committee further notes the SAK and STTK observations received on 23 November 2023. The Committee also notes the information*

			provided by the Government in relation to some of these observations pertaining to the exercise of the right to strike. The Committee notes that the SAK in its observations alleges ***restrictions on the exercise of the right to strike in practice****, stemming from various measures taken by employers to break strikes. The Committee further notes that in their observations on the application of the Labour Relations (Public Service) Convention, 1978 (No. 151), the SAK, the STTK, and the Confederation of Unions for Academic Professionals in Finland (AKAVA) allege restrictions on the right to strike for public servants and church officials. The Committee requests the Government to provide its comments on all of these allegations.* *The Committee further takes note of concerns expressed by the SAK and the STTK regarding the upcoming legislative developments allegedly aiming at limiting the right to strike and the absence of genuine tripartite consultations in this regard. Recalling the crucial importance of social dialogue and consultation with organizations of employers and workers for the preparation and development of legislation affecting their rights, the Committee expresses the firm hope that any changes to the legislation regulating the right to strike are subject to full and in-depth consultations with the social partners. The Committee requests the Government to provide information on all developments in this regard.*
123. France	2007, 2008 (Observations)	Determination of inimum services	**2007**: *[…] The Committee notes that, by virtue of section 5 of this Act, transport enterprises, the employer and the representative trade unions shall engage in bargaining with a view to the conclusion, before 1 January 2008, of a collective agreement on the service to be envisaged in the event of the disturbance of traffic or a strike. This provision also establishes that, in the absence of an applicable agreement as of 1 January 2008, a plan of the envisaged services shall be determined by the employer. In this respect, the Committee recalls that the* ***determination of a negotiated minimum service*** *should be limited to the operations that are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, as it restricts one of the essential means of pressure available to workers to defend their economic and social interests. The Committee emphasizes that* ***workers' organizations should be able, if they so wish, to participate in defining the minimum service, along with employers and the public authorities.*** *The Committee also recalls that, in the event of disagreement, the parties might also envisage the establishment of a joint or independent body (or recourse to a judicial body by the mutual consent of parties) responsible for examining rapidly and without formalities the difficulties raised by the definition and application of such a*

			minimum service and empowered to issue enforceable decisions (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 161). The Committee therefore requests the Government to take the necessary measures to amend section 5 of Act No. 20071224 taking into account the principles relating to the determination of a negotiated minimum service referred to above as well as to provide for a reasonable period of time for the negotiation of a minimum service. **2008**: *In its **previous comments**, the Committee noted that, under the terms of section 5 of this Act, transport enterprises, the employer and the representative trade unions had to engage in bargaining with a view to the conclusion, before 1 January 2008, of a collective agreement on the service to be provided in the event of disruption of traffic or a strike. This provision also established that, in the absence of an applicable agreement as of 1 January 2008, a plan of the services to be provided had to be determined by the employer. The Committee recalled the principle according to which the **determination of a negotiated minimum service should be limited to the operations that are strictly necessary to meet the basic needs of the population or the minimum requirements of the service**, as it restricts one of the essential means of pressure available to workers to defend their economic and social interests. The Committee also emphasized that workers' organizations should be able, if they so wish, to participate in defining the minimum service, along with the employers and the public authorities. Finally, the Committee recalled that, in the event of disagreement, the parties might also envisage the establishment of a joint or independent body (or recourse to a judicial body by mutual consent) responsible for examining rapidly and without formalities the difficulties raised by the definition and application of such a minimum service and empowered to issue enforceable decisions (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 161).* *The Committee notes that the Government recalls in its reply dated 28 August 2008 that the purpose of the adopted Act is to reconcile the exercise of the right to strike with other fundamental freedoms, and that it places the social partners at the focus of the measures to be adopted in order to ensure the best coordination possible. The Government points out that the Act does not intend to establish a minimum service which would lead to the requisitioning of staff but aims to set up a system for predicting the services to be provided which makes no difference to the capacity of the strike to have an impact and apply pressure. With regard to the participation of the social partners in the mechanisms for*

			dispute prevention and organization in the event of a strike, the Government indicates that agreements have been signed with trade unions in both the enterprises and the occupational sector concerned (for example, the agreement signed on 21 January 2008 in urban passenger transport, the extension of which making it applicable to 170 enterprises belonging to the Public Transport Union was published in the Official Journal of 15 June 2008). As regards the procedures for resolving disputes, the Government adds that national law offers a wide range of possibilities but in the transport sector there is also room for cooperation and regulation, as show by the branch negotiations which are already placed under the authority of the chairman of a joint committee, which is independent of the parties, and the task of which is to facilitate dialogue. Furthermore, within the passenger transport enterprises (RATP and SNCF), additional "social alert" clauses were signed before the 1 January 2008 deadline with five trade unions in order to ensure conformity with the provisions of the Act of 21 August 2007. According to the Government, which bases its statements on the annual statistics of the SNCF, the use of "social alert" mechanisms has more than doubled without any increase in the number of strike notices deposited; on the contrary, the number of notices leading to strikes has increased over the same period. This suggests that the periods of prior negotiation provided for by the Act do not restrict the possibility of going on strike. Finally, with regard to the possible use of a joint or independent body, the Government indicates that the setting up of such a body has not been considered necessary by the Government, Parliament or the social partners, in view of existing mechanisms. The Government also recalls that the possibility of intervention by a neutral third party to promote an amicable resolution of disputes is possible under the terms of section 6 of the Act, which provides for the appointment of a mediator by the parties. The Committee notes the information supplied by the Government. *The Committee trusts that the Government will ensure, in any dispute in the land passenger transport sector and in the absence of an agreement on the determination of the minimum service to be maintained in the event of a strike, that the principle is observed whereby the workers' organizations concerned shall be able to participate, alongside the employers and the public authorities, in the definition of this minimum service and, in the event of disagreement, the possibility is guaranteed for the parties to have recourse to a joint or independent body, according to existing or specially established mechanisms.*
124. Georgia	2005, 2006, 2007, 2009, 2011	Quorum and majority required for	**2004**: *[…] The Committee notes that under section 12(2) of the Law on the Procedure for the Settlement of Collective Disputes, a strike can be called further to a vote requiring a*

	(Observations) 2002, 2003, 2004, 2007, 2014, 2017 (Direct requests)	calling a strike - duration of a strike (**implemented in 2014**) - minimum services and essential services - sanctions (**implemented in 2021**) - limitations on strike action related to termination of contracts (**implemented in 2014**) - compulsory arbitration (**implemented in 2014**)	*75 per cent quorum and a majority of those voting. Considering that the quorum set out for a strike is too high and may potentially impede recourse to strike action, particularly in large enterprises,* ***the Committee requests the Government to amend its legislation so as to lower the quorum required for a strike ballot and to keep it informed of the measures taken or envisaged in this regard.*** *The Committee further notes that, according to section 12(5)(b) of the Law, the duration of the strike should be indicated in an advance notice. The Committee recalls that the supervisory bodies have already indicated that forcing workers and their organizations to specify the length of a strike would restrict the right of workers' organizations to organize their administration and activities and to formulate their programmes.* ***The Committee therefore asks the Government to amend its legislation so as to ensure that no legal obligation to indicate the duration of a strike action is imposed on workers' organizations and to keep it informed of measures taken or envisaged in this regard.*** *The Committee also notes that, according to section 12(5)(d), a proposal of minimum services should be indicated in an advance notice. Section 14(4) further provides that in the case of failure to reach an agreement, minimum services are established by the bodies of executive authority, local self-governing and administrative bodies. In the view of the Committee, the authorities may establish a system of minimum service in services which are of public utility in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes. The minimum services could be appropriate in situations in which a substantial restriction or a total prohibition of strike action would not appear to be justified and where, without calling into question the right to strike of the large majority of workers, one might consider ensuring that users' basic needs are met or that facilities operate safely or without interruption (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 160 and 162).* ***The Committee asks the Government to indicate whether the establishment of minimum services is a requirement applicable to all categories of workers and, if so, it requests the Government to amend its legislation so as to ensure that the requirement to establish minimum services is limited to the abovementioned cases****. As regards the provision that any disagreement concerning the establishment of minimum services should be settled by*

			the authorities, the Committee requests that the Government amend its legislation so as to ***ensure that any such disagreement is settled by an independent body having the confidence of all the parties to the dispute and not the executive or administrative authority and to keep it informed of measures taken or envisaged in this regard.*** *Moreover, the Committee notes that according to section 15(2) and (9) of the Law on the Settlement of Collective Disputes, s****ome workers appear to be excluded from exercising the right to strike and it is the President of Georgia who makes the decision on the settlement of a collective labour dispute for these workers****. However, this section does not specify the category of workers excluded. The Committee recalls that the only possible exceptions to the right to strike are those which may be imposed for public servants exercising authority in the name of the State, workers in essential services in the strict sense of the term, and in the event of an acute national emergency. If the right to strike is subject to restriction or a prohibition, workers who are deprived of an essential means of defending their socio-economic and occupational interests should be afforded* ***compensatory guarantees, for example conciliation and mediation procedures leading, in the event of deadlock, to arbitration machinery seen to be reliable by the parties concerned****. It is essential that the latter be able to participate in determining and implementing the procedures, which should furthermore provide sufficient guarantees of impartiality and rapidity (see General Survey, op. cit., 1994, paragraph 164). T****he Committee asks the Government to list any categories of workers which may be excluded by relevant legislation from exercising their right to strike and to provide copies of these laws.*** *It further requests that the Government review its legislation so as to ensure that in the event of a labour dispute, workers who are deprived of the right to strike are afforded compensatory guarantees for the settlement of the dispute by an impartial and independent body and not by the President. The Committee requests that the Government keep it informed of measures taken or envisaged in this regard.* *The Committee notes section 18 of the Law, which provides that persons engaging in an illegal strike bear responsibility in accordance with the legislation of Georgia. The Committee notes that, according to the information provided by the Government, participation in an illegal strike is punishable by a fine, or by corrective labour for up to one year, or by imprisonment of up to two years (section 165 of the Penal Code). Furthermore, in cases where failure to comply with the established strike procedure leads*

			*to grave consequences, the strike organizers are liable to the same sanctions (section 167 of the Penal Code). The Committee considers that sanctions for strike action should be possible only where the prohibitions in question are in conformity with the principles of freedom of association. Even in such cases, the existence of heavy sanctions for strike action may well create more problems than they resolve. Since the application of disproportionate penal sanctions does not favour the development of harmonious and stable industrial relations, the Committee emphasizes that any sanction should not be disproportionate to the seriousness of the violation (see General Survey, op. cit., paragraphs 177 and 178). T**he Committee therefore asks the Government to amend sections 165 and 167 of the Penal Code and, in particular, to repeal the reference to corrective labour and imprisonment so as to ensure that sanctions for participation or organization of an illegal strike are not disproportionate**.* **2006:** *The Committee notes the recently adopted Labour Code and wishes to raise in this respect the following points. [...]* *– According to section 51(4) and (5), the strike of employees who are informed about termination of the contract before the dispute arises, shall be considered illegal and if the right to strike arises before the termination of the time-based contract, the strike shall be considered illegal after the expiration of the term of the contract. While bearing in mind the ban on dismissing workers during a strike set out in sections 36(6), 49(10) and 52(1), the Committee considers that **limitations on strike action related to termination of contracts** could totally restrict any protest action taken by workers relating to what they might consider to be unjustifiable terminations. The Committee requests the Government to repeal provisions contained in section 51(4) and (5) and to keep it informed of the measures taken or envisaged in this respect.* *– Section 49(1) stipulates that "**persons specified in the Georgian legislation do not have the right to participate in strikes**". The Committee requests the Government to provide a list of persons who do not have a right to strike along with the relevant legislation.* *– Section 51(2) prohibits strikes in **sectors where "work is impossible to suspend due to the technological mode of work"**. The Committee recalls that the only possible exceptions to the right to strike are those which may be imposed for **public servants exercising authority in the name of the State, workers in essential services in the strict sense of the term, and in the event of an acute national emergency**. The authorities may however*

			establish a system of minimum service in services which are of public utility in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes. The minimum services could be appropriate in situations in which a substantial restriction or a total prohibition of strike action would not appear to be justified and where, without calling into question the right to strike of the large majority of workers, one might consider ensuring that users' basic needs are met or that facilities operate safely or without interruption (see General Survey of 1994 on freedom of association and collective bargaining, paragraphs 160 and 162). The Committee requests the Government to amend section 51(2) accordingly to the above principle and to keep it informed of the measures taken or envisaged in this respect. *– Section 49(8) provides that a strike cannot continue for more than 90 calendar days. The Committee considers that no such* ***arbitrary periods of limitations*** *should be placed on the right to strike and advises the Government to give consideration to appropriate mechanisms of conciliation, mediation or voluntary arbitration instead.* *– Section 49(5) provides that, after the warning strike, the parties shall participate in the work of the* ***conciliatory commission*** *pursuant to the Labour Code. The Committee notes, however, that the Code does not seem to provide for any rules or procedure of such a commission. The Committee requests the Government to provide information on the functioning, the mandate and the effect of this commission.* *– According to section 46(1) and (2), an* ***employee's rights may be limited by the labour contract due to the importance of the production process and if it may cause direct damage to the interests of the employer****. The Committee expresses its concern over the impact this section might have on the exercise of the legitimate trade union rights and requests the Government to indicate how this section is used in practice.*
125. Germany	1989, 1991, 1993, 1994, 1995, 1996, 1998, 2000, 2002, 2003, 2004, 2005, 2007, 2009, 2011, 2014, 2021 (Observations)	Public service - list of public services - requisitioning of workers	**1989**: *The Committee recalls that* ***it drew the Government's attention in its previous observation*** *to the fact that, when national legislation prohibits or restricts strikes in the public service or in essential services, such restrictions become meaningless if the* ***legislation defines the public service or essential services too broadly****. Accordingly, any prohibition of strikes should be confined to public servants acting in their capacity as agents of the public authority or to services whose interruption would endanger the life, personal safety or health of the whole or part of the population.* ***The Committee therefore once again requests the Government*** *to indicate in its next report the measures that it has taken to guarantee the right to strike to public servants who do not act in a capacity as*

			agents of the public authority, and in particular postmen, counter clerks and telephonists in the postal service, whether they are considered to be state employees (Angestellte) or whether they have the status of civil servants (Beamte). Furthermore, with regard in particular to the ***requisitioning of civil servants*** *(Beamte)* ***who are not acting in their capacity as agents of the public authority, to replace strikers****, the Committee considers that such a measure may constitute a breach of Article 3 of the Convention, under which public authorities must avoid any intervention that could limit the right of workers' organisations to organise their activities and to formulate their programmes. The Committee, like the Committee on Freedom of Association, recognises that normal community life can be disrupted when the operation of services or enterprises, such as transport or the postal service, is stopped. However, it cannot be said that the stopping of such services or enterprises creates in itself a situation of acute national crisis. Therefore, the Committee considers that the requisitioning of postal civil servants (Beamte) during a dispute in that service was such as to restrict the right to strike recognised to postal employees (Angestellte) as a means of defending their professional and economic interests. In other words, the recourse to public servants (Beamte) or to another group of persons to execute the functions not accomplished by reason of a labour dispute is only justified, if the strike is otherwise lawful, by the necessity of ensuring the operation of services or enterprises whose interruption would create a situation of acute national crisis; the fact that the Government had recourse to employees who are not part to a labour dispute to replace strikers may constitute a risk of restriction of the right to strike, affecting the free exercise of trade union rights. However, the Committee recalls that it has always considered that, if the extent and duration of a strike could cause an acute national crisis, a minimum service concerning a specified category of workers could be maintained. In that case, however, the trade unions should be able to participate, should they so wish, in defining such minimum service alongside the employers and public authorities. While noting that the Constitutional Court has not yet issued its verdict on the appeal brought before it on this matter, the Committee requests the Government to indicate in its next report the measures it has taken in this respect, since it is responsible for ensuring that effect is given to this Convention.* **2021***: Article 3 of the Convention. Right of workers' organizations to organize their administration and activities and to formulate their programmes. The Committee recalls that it has been requesting for a number of years the adoption of measures to recognize*

			the right of public servants who are not exercising authority in the name of the State to have recourse to strike action. The Committee had previously noted with interest a 2014 ruling handed down by the Federal Administrative Court holding that, given that the constitutional strike ban depends on the status group and is valid for all civil servants (Beamte) irrespective of their duties and responsibilities, there is a collision with the European Convention on Human Rights (ECHR) in the case of civil servants (Beamte) who are not active in genuinely sovereign domains (hoheitliche Befugnisse), for instance teachers in public schools, and this collision should be solved by the federal legislator; and that, in the case of civil servants (Beamte) who exercise sovereign authority, there is no collision with the ECHR and thus no need for action. The Committee also noted that in its 2015 ruling, the Federal Administrative Court confirmed that it is the task of the federal legislator to establish a balance between the incompatible requirements of Article 33(5) of the Basic Law and Article 11 of the ECHR and that, as long as this has not been done, the public-law strike prohibition continues to apply and is a disciplinary rule. *In its previous comment, having noted that a complaint had been raised before the Federal Constitutional Court in relation to the 2014 Federal Administrative Court judgment, the Committee requested the Government to provide a copy of the decision of the Federal Constitutional Court, as well as any other pending decision issued by it on the subject. In view of the collision ascertained by the Federal Administrative Court between Article 33(5) of the Basic Law and Article 11 of the ECHR and in light of the persisting need highlighted by the Committee for many years to bring the legislation into full conformity with the Convention with regard to the same aspect, the Committee once again requested the Government to: (i) refrain, pending the relevant decision of the Federal Constitutional Court, from imposing disciplinary sanctions against civil servants not exercising authority in the name of the State (such as teachers, postal workers and railway employees) who participate in peaceful strikes; and (ii) to engage in a comprehensive national dialogue with representative organizations in the public service with a view to finding possible ways of aligning the legislation with the Convention.* ***The Committee notes the Government's indication that in its decision of 12 June 2018 (Case No. 2 BvR 1738/12), the Federal Constitutional Court held, contrary to the 2014 judgment of the Federal Administrative Court, that: (i) for civil servants, irrespective of their duties, the strike ban amounts to an independent traditional principle of the career civil service system (Berufsbeamtentum) within the meaning of Article 33(5) of the***

			Basic Law, which justifies an overriding of freedom of association; (ii) this is closely linked to the civil service principle of alimentation (Alimentationsprinzip), according to which civil servants are paid salary commensurate with the civil service position, and also to the duty of loyalty, the principle of lifetime employment and the principle that the legal relationship under civil service law (including remuneration) must be regulated by the legislature; (iii) there is no need for an express legal provision concerning a strike ban for civil servants; (iv) the strike ban for civil servants in Germany is consistent with the principle of interpreting the Basic Law in a manner compatible with international law, as well as with guarantees of the ECHR, as there is no identifiable conflict between German law and Article 11 of the ECHR; and (v) regardless of the question of whether the strike ban for civil servants actually represents an encroachment on Article 11(1) of the ECHR, it would in any case be justified either under the first or the second sentence of Article 11(2) based on the particularities of the German system of the career civil service. *The Committee further observes from the text of the ruling that the Federal Constitutional Court opined that: (i) granting the right to strike, even for certain groups of civil servants only, would trigger a chain reaction with regard to the structuring of the civil service, would fundamentally change the system of German civil service law and would interfere with the core of the structural principles guaranteed under Article 33(5) of the Basic Law; (ii) dividing civil servants into groups that have or do not have the right to strike based on their different functions would entail difficulties of distinction that are connected to the concept of public authority and would create a special category of civil servants with the right to strike or civil servants subject to collective agreements, who would be given the possibility of enforcing demands regarding their working conditions through labour dispute measures where applicable, while keeping their civil servant status - this would raise the question to what extent this category of personnel could still be regarded as having the legal status of civil servants; and (iii) to compensate for the civil servants' lack of possibility to influence their employment conditions by measures of labour dispute, Article 33(5) of the Basic Law affords them, among others, the subjective public right to have the constitutionality of their alimentation reviewed in court, which would be almost completely meaningless if civil servants had the right to strike. The Government adds that proceedings against the strike ban for civil servants are currently ongoing before the European Court of Human Rights.* *The Committee notes the observations of the BDA in this respect, pointing to the 2018 decision of the Federal Constitutional Court and indicating that although the concept of*

			freedom of association also includes the right to industrial action (strike and lock-out), this Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) do not regulate or expressly provide for a right to strike. According to the BDA, the manner in which industrial action is organized in practice is always regulated in line with the particular Conventions but at the national level. The Committee also notes the observations of the DGB, claiming that there should be no absolute exclusion of civil servants from the right to strike irrespective of their duties and that a strike ban based on status, as established by the Federal Constitutional Court, represents a hindrance to any practical concordance between Articles 9(3) and 33 of the Basic Law. The DGB argues that a genuine balancing exercise would mean that the strike ban can only remain in place for those officials who genuinely exercise the sovereignty of the State and that civil servants who do not genuinely exercise the sovereignty of the State must benefit from the right to strike to preserve and promote their employment conditions. *The Committee takes due note of the ruling of the Federal Constitutional Court that for civil servants, irrespective of their duties, the strike ban amounts to an independent traditional principle of the career civil service system within the meaning of section 33(5) of the Basic Law, which justifies an overriding of freedom of association. Moreover, the Committee wishes to make clear that its task is not to judge the validity of the Court decision of 12 June 2018 (Case No. 2 BvR 1738/12), which is based upon issues of German national law and precedents. The Committee's task is to examine the outcome of this decision on the recognition and exercise of the workers' fundamental right to freedom of association. In this regard, the Committee observes with regret that the result of the Court's decision is not in keeping with the Convention, inasmuch as it amounts to a general ban on the right to strike of civil servants based on their status, irrespective of their duties and responsibilities, and in particular a ban on the right of civil servants who are not exercising authority in the name of the State (such as teachers, postal workers and railway employees) to have recourse to strike action. In view of the above, the Committee encourages the Government to continue engaging in a comprehensive national dialogue with representative organizations in the public service with a view to finding possible ways of aligning the legislation more closely with the Convention. Further noting that proceedings against the strike ban for civil servants are currently ongoing before the European Court of Human Rights, the Committee requests the Government to provide information on the resulting decision and on any impact it may have at the national level.*

			The Committee previously noted with interest that, in relation to the 2012 DGB observations denouncing the lack of a general prohibition of the use in non-essential services of temporary workers as strike breakers, national legislation had been amended to ensure that the receiver was no longer allowed to hire agency workers as strike breakers (according to section 11(5) of the Manpower Provision Act, in effect from 1 April 2017, the receiver shall not allow agency workers to work if the business is directly involved in a labour dispute). The Committee notes with interest the Government's indication in this respect that: (i) the deployment of agency workers in industries affected by industrial action is only possible if there is an assurance that they will not take over the jobs of those on strike, either directly or indirectly; (ii) a constitutional complaint against this provision had been brought before the Federal Constitutional Court, claiming that there was a breach of the employer's freedom of association in that its defences (specifically the use of agency workers during industrial action) were being illegitimately constrained, amounting to undue interference in the ability to carry out a profession; and (iii) in its decision of 19 June 2020 (Case No. 1 BvR 842/17), the Federal Constitutional Court found that the regulation concerned was constitutional and the applicant's rights had not been infringed.
126. Greece	1991, 1993, 1998, 2002, 2011, 2012, 2014 (Observations)	Essential service and determination of minimum services - right to strike of seafarers - strike-ending effect of arbitration awards - civil mobilization orders	**1991:** *The Committee notes that Act No. 1915 widens the* ***scope of the concept of the vital needs of the population for which a minimum service must be provided in the event of a strike*** *(section 4 of the new Act amending section 21(2) of the Act of 1982). The new Act includes among the enterprises the operation of which is essential to cover the vital needs of the population, the Bank of Greece, civil aviation enterprises and enterprises responsible for paying the wages of employees in the public sector (section 3 of the new Act amending section 19 of the Act of 1982). Finally, the employer is made responsible for designating by name, at the beginning of the strike, the persons who must form the security staff (section 4 in fine of the new Act partially amending section 21 in fine of the Act of 1982).* *The Committee notes the criticisms made by the CGTG concerning the draft text, which has since become Act No. 1915, according to which the employer is now solely responsible for designating the workers who are to provide the services in question. However, the Committee notes that the new Act does not seem to repeal the provisions of the Act of 1982 respecting the minimum service, in the determination of which workers and employers participate jointly, with the possibility, in the event of disagreement, of referring the matter to arbitration by a tripartite committee chaired by a judge (sections*

			15 and 21 of the Act of 1982). ***The Committee therefore requests the Government to indicate the manner in which, in practice, minimum services are established in public enterprises whose operation is essential to satisfy the vital needs of the population during the period covered by the report, and in particular the channels of appeal available to workers' organisations to criticise the nominations made by the employer to the security staff.*** **1993:** *The Committee notes, from the information contained in the Government's report, that section 4 of Act No. 1915 of 1990 provides that the employer is responsible for designating the minimum staff in the event of a strike in the public sector or in services which are of public utility. Observing that the* ***services where strikes can be restricted go beyond the definition of essential services in the strict sense of the term namely those whose interruption would endanger the life, personal safety or health of the whole or part of the population****, it concludes that this provision has the effect of modifying the provisions contained in the Act of 1982 respecting minimum service, in the determination of which workers and employers participated jointly. In these circumstances, the Committee recalls that, in accordance with the principles of freedom of association, organizations of workers should be able, if they so wish, to* ***participate in the determination of such minimum services****. It therefore requests the Government, in the same way as the Committee on Freedom of Association, to take the necessary action to guarantee, both in law and in practice, that the workers' organizations are involved in defining the minimum services to be maintained in the event of a strike in services deemed as essential in Greek legislation, and to indicate in its next report the action taken in this regard.* **1998***: The Committee takes note of the Government's reply to the comments made by the GGCL. In particular, the Committee notes* ***that the Government indicates that the limitations provided for in Act 1264/82 on the right of workers employed in public or utility undertakings to go on strike do not violate the Constitution nor international conventions. The Government points out that these limitations are also provided for in the majority of foreign laws and are accepted by foreign jurisprudence and practice. Furthermore, the Government indicates that article 31 of the European Social Charter provides that, by way of exception, limitations can be imposed on the rights established by the Charter (including the right to strike), provided that these limitations are***

			necessary in a democratic society for the safeguarding of the respect for the rights and freedoms of other individuals or for the protection of public order, national security, public health or the virtuous morals. **2002:** *The Committee notes that section 32(2) of Act No. 330 of 1976, transmitted by the Government with its report, respecting occupational unions and federations, prohibits a strike which has been declared in contravention of the provisions of Act No. 3239/1955 on the procedures for the settlement of collective labour disputes, etc., and that this Act is apparently still applicable to seafarers. The Committee requests the Government to specify in its next report the* ***conditions under which seafarers' organizations may declare a strike*** *and to transmit the text of Act No. 3239/1955 along with any amendments, as well as any other relevant legislative texts, so that the Committee can examine their conformity with the provisions of the Convention.* *The Committee urges the Government to take all necessary steps in the very near future to guarantee seafarers the full enjoyment of the rights entrenched in the Convention and to transmit information in this respect in its next report.* **2011:** *The Committee observes the concerns raised by the GSEE in its comments in relation to certain legislative changes or legislative intervention which has effectively restricted the right to strike in the country. The GSEE refers in particular to: (1) the uncertainty of the legality of strike action related to non-wage matters when an arbitral award has been issued on the basic wage; and (2) the renewed use by the Government of civil mobilisation orders to bring an end to legitimate strike action in the maritime sector.* *As regards the first point, the Committee observes the following information provided by the Organization for Mediation and Arbitration (OMED) to the HLM:* *In case of arbitration, the right to strike was suspended for 10 days. […] In reply to questions raised by the HLM, the OMED indicated that certain questions of interpretation had been left open in the text of the law. For instance, it was not clear whether arbitrators could issue awards on wages as well as allowances. It was also not clear whether in case an employer had recourse to arbitration on the issue of wages, a strike could nevertheless be staged on non-wage matters which were previously part of the collective agreement and over which negotiations had reached a standstill.* *While fully recognizing that the* ***right to strike may be suspended for a restricted period of time during which mediation, conciliation or voluntary arbitration procedures are***

			engaged in, *the Committee requests the Government to provide clarification as to whether workers may engage in industrial action despite an arbitral award on wages where the parties are at a deadlock in respect of negotiations on non-wage matters.* *As regards the use of civil mobilization orders to curtail industrial action in the maritime sector, the Committee observes that this matter was recently dealt with by the Committee on Freedom of Association (Case No. 2838). The Committee, like the Committee on Freedom of Association, requests the Government to take the necessary steps to ensure that the civil mobilization order is no longer in force so that seafarers may have recourse to industrial action when they arrive at an impasse in negotiations and to ensure that, in the future, the decision to suspend a strike on the grounds of national security or public health is made by an independent body.* **2014***: In its previous comments, the Committee had noted the Government's indication that civil mobilization orders to curtail industrial action in the maritime sector were only made with a view to addressing the most adverse public health effects and that no restrictions were made to curtail strike action by the PNO during the period December 2010–February 2012. The Committee notes the information provided by the ITUC concerning several civil mobilization orders issued in 2013 with respect to the maritime sector, public transport and secondary education state schoolteachers, as well as the detailed replies provided by the Government concerning the risks for the safety and health of island citizens arising from the extended period of the strikes which led it to issue the mobilization orders for the maritime sector, as well as the considerations in relation to the other strikes. The Committee also notes the observations made by the IOE and the SEV that what is considered to be services essential to the community may depend to a large extent on the particular circumstances prevailing in a country and that non-essential services may become essential if a strike lasts beyond a certain time or extends beyond a certain scope, thus endangering the life, personal safety or health of the whole or part of the population. The IOE and SEV indicate that this appears to have been the case in Greece with respect to the six-day strike in the maritime sector.* *The Committee takes due note of all the explanations provided and e****xpects that the Government will resort to civil mobilization orders in circumstances only when the strike action endangers the life, personal safety or health of the whole or part of the population.*** *The Committee nevertheless notes with concern the penal proceedings undertaken against the seafarers and, recalling that* ***penal sanctions*** *should only be*

			envisaged where there has been violence against persons or property during a strike or where there have been other serious infringements of the provisions of the penal law that do not conflict with Articles 3(2) and 8 of the Convention, the Committee trusts that this principle will be borne in mind by the Government and requests it to provide detailed information in reply to the ITF's observations and to continue to provide information on any further use of civil mobilization orders.
127. Hungary	2015, 2017, 2021, 2022 (Observations) 1991, 1993, 1994, 2012, 2014 (Direct requests)	Exercise of the right to strike in practice - Minimum services - essential services	**2014***: The Committee previously noted that the ITUC alleged that as a result of the 2010 amendment of Act VII of 1989 on strikes (Act on Strikes), there were growing* ***difficulties in exercising the right to strike in practice****; and that, as confirmed by the Government, trade union* ***applications for determination of the minimum level of service in the sectors of transport by road and rail*** *had often been rejected by the courts due to formal deficiencies and, consequently, no strikes had been staged in the relevant sectors in 2011. The Committee had requested the Government to take steps to ensure that the application in practice of section 4 of the Act on Strikes as amended, did not impede the lawful exercise of the right to strike.* *The Committee notes the copy of the Act on Strikes as last amended supplied by the Government and observes that, according to its section 4(3), the level of service deemed sufficient and the related requirements may be defined by an act of Parliament; or, if there is none, they shall be agreed upon by the parties during the pre-strike negotiations; or, failing such agreement, they shall be determined by final decision of the court of public administration and labour. The Committee notes the Government's indications that: (i) the wording of the Act on Strikes as amended offers less opportunity to abuse the right to strike as occurred occasionally under the previous legislation and encourages the parties to reach an agreement on minimum services; (ii) based on the recent practice regarding trade union applications to the courts for determination of minimum services, it became necessary to amend and clarify the provisions of the Act on Strikes with respect to services where parties could frequently not agree, so as to guarantee a predictable service level for users; (iii) therefore the definition of the still adequate service was included in Act XLI of 2012 on passenger transport service, which means that transport employees are not hindered by the lack of regulation in starting a strike; and (iv) for the same reasons, Act CLIX of 2012 on postal services stipulates the extent and conditions of the still adequate services regarding postal services. The Committee also notes the views of the workers' side of the National ILO Council that: (i) the Act on Strikes as amended in 2010 tightens*

			the requirements of minimum services stipulating that strikes cannot be launched in a legal manner as long as the issue has not been settled by the parties; and (ii) with regard to public transport, the act defines minimum services during a strike, but in such a manner that it calls into question the pressure a strike can exert. Recalling that minimum services should be confined to operations that are strictly necessary to ensure that the basic needs of the users of the relevant service are met, the Committee requests the Government to indicate the ***minimum services prescribed for the public transport and postal sectors*** *and to transmit copies of the relevant laws and regulations. More generally, the Committee requests the Government to take the necessary steps to* ***ensure that, failing agreement of the parties, applications to the courts for determination of the minimum service level are expeditiously decided upon*** *so as not to unduly impede the exercise of the right to strike.* **2017:** *The Committee notes that the Government refers again to the relevant provisions of the Strike Act (section 4(2) and (3)) and to the Passenger Transport Services Act and Postal Services Act.* ***In the Government's view, by regulating the extent of sufficient services in respect of two basic services that substantially affect the public and thus creating a pre-clarified situation, the legislature promoted legal certainty in the context of the exercise of the right to strike. The level of sufficient services was determined seeking to resolve the potential tension between the exercisability of the right to strike and the fulfilment of the State's responsibilities to satisfy public needs.*** *The Government further indicates that negotiations on the amendment of the Strike Act took place in the framework of the VKF throughout 2015 and 2016, in the course of which the trade unions considered that the extent of sufficient services in the passenger transport sector was excessive. The employees' and employers' sides managed to agree on a few aspects of the amendment of the Strike Act, but failed to reach an agreement regarding, inter alia, which institution should be authorized to determine the extent of sufficient services in the absence of a legal provision or agreement. Stressing the importance of a compromise of the social partners on the amendment proposals of the Strike Act, the Government adds that, since the trade unions had announced proposals at the end of 2016 but had not submitted them during the first half of the year, no further discussions have taken place in 2017. The Committee further notes that the workers' group of the National ILO Council reiterates that the strike legislation contains an obligation to provide sufficient service during strike action which in some sectors virtually precludes the exercise of the right to*

			strike (for example by requiring 66 per cent of the service to be provided during the strike and ensuring the feasibility of this rate through extremely complicated rules). **2022:** *The Committee had previously highlighted the need to amend the relevant laws (including the Strike Act, the Passenger Transport Services Act and the Postal Services Act), in order to ensure that the* ***workers' organizations concerned may participate in the definition of a minimum service and that, where no agreement is possible, the matter is referred to a joint or independent body****. The Committee notes the Government's indication that having dealt with difficulties caused by the COVID-19 pandemic, it plans to put on the agenda a comprehensive amendment of the Strike Act.* The Committee urges the Government to take all necessary measures to amend without further delay the Strike Act, as well as the Passenger Transport Services Act and the Postal Services Act as per the Committee's previous comments, and to provide information on all developments in this respect.
128. Iceland	2003 (Observation) 2014 (Direct request)	Penal sanctions - Essential services - compulsory arbitration	**2003***: The Committee takes note of the information provided in the latest report communicated by the Government concerning difficult negotiations relating to fishermen's wages and which led to major industrial action in the fishing industry. The Committee further notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2170 (see 330th Report approved by the Governing Body at its 286th Session in March 2003, paragraphs 885-894) on this matter.* *Article 3 of the Convention Right of workers' and employers' organizations to organize their activities and formulate their programmes free from Government interference. The Committee notes that Act No. 8/2001 (adopted on 19 March 2001) postponed until 1 April 2001 industrial action called by a number of occupational organizations as a result of difficult negotiations relating to fishermen's wages (determined at the time by Act No. 10/1998). The Committee further notes that, under the provisions of the Act,* ***infringements to the temporary prohibition of the strike would be dealt with under the Penal Code and would lead to the payment of a fine if a more severe sanction did not apply under another Act.*** *The Committee notes that the strike resumed on 2 April. Act No. 34/2001, adopted on 16 May 2001, once again prohibited with immediate effect the strike. The prohibition was to last during the whole period of validity of the decision made by the arbitration panel to be established under the Act. The Committee notes that the arbitration panel eventually determined the fishermen's wages by extending the application of a*

			collective agreement reached by some professional organizations of the sector until the end of 2003. *In the Committee's view, Act No. 8/2001 and Act No. 34/2001 constitute yet another legislative intervention in a strike action of the type of those which have occurred over the past years (see Cases Nos. 1458 and 1563, dealt with respectively in the 262nd and 279th Reports of the Committee on Freedom of Association and the comments of this committee in its 1990 observation). The Committee therefore deems it necessary to draw the attention of the Government to the following points, all the more so as the current collective agreement determining fishermen's wages and declared applicable under Act No. 34/2001 will soon be due for renewal.* *First, the Committee recalls that the* ***right to strike may be restricted or prohibited in particular in essential services in the strict sense of the term*** *- that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see the General Survey of 1994 on freedom of association and collective bargaining, paragraphs 159 and 160).* ***The Committee takes due note of the Government's comments on the importance of the fishing industry in the Icelandic economy and that its justification for the adoption of both Acts - and in particular the prohibition of the right to strike - is solely based on the economical weight of the sector. Concerning Act No. 8/2001, the Committee notes the Government's comment to the effect that the strike began in the course of the capelin-fishing season, that a large part of the capelin quota remained to be caught and that therefore vital economic interests were at stake; Act No. 8/2001 was thus adopted to avoid substantial damage to the national economy. In respect of Act No. 34/2001, and in particular the economic impact of the six-week strike, the Committee notes the Government's comment that "if the strike would last much longer it would have serious consequences for the country's economy"; the Government also indicates that " the damaging effects of the strike were already beginning to become evident …" and therefore that " it was necessary to take measures to prevent a major economic disruption …".*** *While fully recognizing that a work stoppage in the Icelandic fishing industry may have important consequences on the national economy (as stoppages in other important sectors may have for other countries), the Committee does not consider that the work stoppage in question endangered the life, personal safety or health of whole or part of the population. The Committee therefore considers that both Acts Nos. 8/2001 and 34/2001 restricted the right of workers' organizations to freely organize their activities and formulate their programmes for the*

			furtherance and the defence of the interests of their members, in a manner that was not compatible with Article 3 of the Convention. *In light of the considerations made above, the Committee urges the Government to refrain from legislative intervention aimed at prohibiting legitimate strike action in the future, and in particular in the event that workers' organizations would once again decide to have recourse to industrial action should the negotiations of fishermen's wages give rise to new difficulties.* **2014:** *In its report, the Government indicated that in the context of the renewal of the collective agreement concerning non-officer seamen on the* Herjólfur *ferry, members of the Icelandic Seamen's Union started strike action on 5 March 2014, which reduced the number of ferry crossings made. The Government indicated that it had enacted Act No. 24/2014 on 1 April 2014, suspending strike until 15 September 2014 and stipulating that, during that period, the most recently agreed collective agreements were to remain in force unless the parties agreed to other terms. The Committee further notes the observations from the ASI that it regarded the Government's interference in collective bargaining by seamen on the* Herjólfur *ferry as a blatant and unequivocal violation of the Convention, directed against the activities of independent trade unions and their right to pursue their demands by means of lawful strike action. The Committee recalls that* ***essential services, in which the right to strike may be restricted or even prohibited, are only those the interruption of which would endanger the life, personal safety or health of whole or part of the population****. This concept is not absolute in its nature in so far as a non-essential service may become essential if the strike exceeds a certain duration or extent, or as a function of the special characteristics of a country. The Committee further recalls that when the right to strike is restricted or prohibited in certain enterprises or services considered essential, the workers should* ***be afforded adequate protection, for example, impartial conciliation and arbitration procedures which have the confidence of the parties, so as to compensate for the restrictions imposed on their freedom of action.*** In this context, the Committee requests the Government to ensure full respect of these principles in the future and requests it to provide information as to developments in relation to the industrial action taken by the seamen on the ***Herjólfur*** ferry.
129. Ireland	NO COMMENTS		
130. Italy	NO COMMENTS		

131. Kazakhstan	2017, 2018, 2019, 2020, 2021 (Observations)	Penal sanctions - Imprisonment	**2017:** *The Committee notes with concern from the Conference Committee discussions and the information provided by the ITUC that trade union leaders have been convicted and sentenced in application of section 402 of the Criminal Code (2016), according to which an incitement to continue a strike declared illegal by the court was punishable by up to one year of imprisonment and in certain cases (substantial damage to rights and interest of citizens, etc.), up to three years of imprisonment. The Committee requests the Government to provide its comments thereon. It recalls that* ***no penal sanctions should be imposed against a worker for having carried out a peaceful strike and thus for merely exercising an essential right, and therefore that measures of imprisonment or fines should not be imposed on any account****. Such sanctions could be envisaged only where, during a strike, violence against persons or property, or other serious infringements of penal law have been committed, and can be imposed exclusively pursuant to legislation punishing such acts (see the 2012 General Survey on the fundamental Conventions, paragraph 158). The Committee requests the Government to take the necessary measures to amend section 402 of the Criminal Code so as to bring it into line with this principle. It requests the Government to indicate all measures taken or envisaged in this respect.*
132. Kyrgyzstan	1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2009, 2010, 2011, 2012, 2014, 2017, 2018, 2019, 2020, 2021 (Direct requests)	Essential services - minimum services - compensatory guarantees - quorum and majority required for a strike ballot - sanctions - duration of a strike	**1998:** *The Committee furthermore requests the Government to provide with its next report a copy of the Penal Code currently in force and to specify whether there are still provisions in force similar to sections 190(3) and 24 of Criminal Code of the former USSR (which, read together, impose* ***restrictions on the right of workers to participate in collective action aimed at disrupting transport services or public and social enterprises or establishments, and makes such action punishable by imprisonment for up to three years****), or the Presidential Decree of 16 May 1991 concerning* ***emergency measures to ensure the stability of work in branches of economic activity that are essential to the national economy****. If such provisions are in force, the Committee requests the Government to consider amending or repealing them. […]* *Lastly, the Committee requests the Government to provide with its next report a copy of the text of the Labour Code currently in force, including any amendments made since 1993, and any text governing the right to organize, the settlement of collective disputes and the right to strike, with regard not only to citizens of Kyrgyzstan but also to foreign workers legally resident in the country.*

			2005*: The Committee notes that under section 78(3) of the Labour Code, the strike is prohibited in the railway transport, public transport, civil aviation, communication services and continuously working enterprises, the stoppage of which would have hazardous consequences. The Committee requests that the Government indicate the enterprises and s**ervices it qualifies as "continuously working enterprises, the stoppage of which would have hazardous consequences"** where the right to strike is prohibited under section 78(3) of the Labour Code. The Committee recalls that the right to strike can be restricted or prohibited in the event of an acute national emergency, in the public services or in essential services in the strict sense of the term, i.e. those, the interruption of which, would endanger the life, personal safety or health of the whole or part of the population (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 159). Considering that railways, public transport, civil aviation and postal services in general (with the exception of air traffic control) are not essential services in the strict sense of the term, the Committee requests that the Government amend its legislation so as to ensure that workers of the above services may exercise the right to strike. The Committee considers that the authorities may establish a system of minimum service in services which are of public utility in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes. **The minimum services** could be appropriate in situations in which a substantial restriction or a total prohibition of strike action would not appear to be justified and where, without calling into question the right to strike of the large majority of workers, one might consider ensuring that users' basic needs are met or that facilities operate safely or without interruption (see General Survey, op. cit., paragraphs 160 and 162). The Committee notes that section 78(4) of the Labour Code provides that workers, following mediation and conciliation procedures provided for in the Code, could address the Government of Kyrgyzstan to defend their legitimate rights and interests. The Committee recalls that, i**f the right to strike is subject to restrictions or a prohibition, workers who are thus deprived of an essential means of defending their socio-economic and occupational interests should be afforded compensatory guarantees, for example, conciliation and mediation procedures leading, in the event of deadlock, to arbitration machinery seen to be reliable by the parties concerned which should provide sufficient guarantees of impartiality and rapidity** (see General Survey, op. cit., paragraph 164). The

			Committee therefore requests that the Government review its legislation so as to ensure that in those cases any disagreement concerning a collective dispute is settled by an independent body enjoying the confidence of the parties concerned and not by the Government and to keep it informed of measures taken or envisaged in this regard. **2008***: Article 3 of the Convention. The Committee notes that the decision to call a strike should be taken by the meeting (conference) of workers (section 437 of the Code). According to this provision, a* ***minimum of two-thirds of the total number of workers (delegates) should be present at the meeting (conference) and the decision to take a strike should be taken by at least half of the number of workers present.*** *Considering that the quorum set out for a strike is too high and may potentially impede recourse to strike action, particularly in large enterprises, the Committee requests the Government to amend its legislation so as to lower the quorum required for a strike ballot and to indicate the measures taken or envisaged in this regard.* *The Committee notes that section 437 of the Code imposes the obligation to indicate, in the strike notice, the possible duration of the strike as well as to provide proposal on the minimum services to be maintained during the strike. The Committee requests the Government to indicate whether workers can declare a strike for an indefinite period of time. It further requests the Government to specify the sectors of activity in which the minimum services should be maintained.* *The Committee notes that under section 440(b) of the Code,* ***the strike is prohibited in essential services – which include air, railway and water transport and communication – if the strike would endanger the defence and security of the State, as well as the life and health of the population****. The Committee recalls that the right to strike can be restricted or prohibited in the event of an acute national emergency, in the public services or in essential services in the strict sense of the term, i.e. those the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 159). Considering that air, railway and water transport and communication in general (with the exception of air traffic control and telephone services) are not essential services in the strict sense of the term, the Committee requests the Government to clarify whether workers employed in these services enjoy the right to strike.*

			2012: *The Committee recalls that in its previous direct request it had noted that pursuant to section 437 of the Labour Code (2004), the decision to call a strike should be taken by a meeting (conference) of workers, that a minimum of two-thirds of the total number of workers (delegates) should be present at that meeting (conference) and that the decision to strike should be taken by at least half of the number of workers present. Considering that the quorum set out for a strike is too high and may potentially impede recourse to strike action, particularly in large enterprises, the Committee had requested the Government to take the necessary measures to amend its legislation so as to lower the quorum required for a strike ballot and to indicate the measures taken or envisaged in this regard.* ***The Committee notes that in its report, the Government indicates that lowering the number of workers currently required to be present at the meeting is senseless.*** *The Committee once again recalls that the quorum of two-thirds of workers set out for a strike ballot may be difficult to reach and may potentially impede recourse to strike action, particularly in large enterprises. It therefore once again requests the Government to take the necessary measures to amend its legislation so as to lower the quorum required for a strike ballot and to indicate the measures taken or envisaged in this regard.* *The Committee further recalls that it had noted that the same legislative provision imposes an obligation to indicate, in the strike notice, the* ***possible duration of the strike*** *as well as to provide proposals on the minimum services to be maintained during the strike. The Committee requested the Government to indicate whether workers could declare a strike for an indefinite period of time, and to specify the sectors of activity in which the minimum services should be maintained. The Committee notes that according to the Government, a strike can be of an indefinite length.* *[…]* *The Committee also recalls that under section 440(b) of the Code, strikes are prohibited in essential services – which include air, railway and water transport and communication – if the strike would endanger the defence and security of the State, as well as the life and health of the population. Considering that air, railway and water transport and communication in general (with the exception of air traffic control and telephone services) are not essential services in the strict sense of the term, the Committee requested the Government to clarify whether workers employed in these services enjoy the right to strike.* ***The Committee notes that the Government confirms that workers engaged in the abovementioned services do not enjoy the right to strike.*** *The Committee once again*

			recalls that the right to strike can be restricted or prohibited in the event of an acute national or local crisis, in case of public servants exercising authority in the name of the State or in essential services in the strict sense of the term, in other words, those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, and that air, railway and water transport and communication in general (with the exception of air traffic control and telephone services) are not essential services in the strict sense of the term. The Committee considers, however, that in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum services in such services, which are of public utility, rather than impose an outright ban on strikes. The Committee therefore requests the Government to take the necessary measures to amend the Labour Code so as to bring it into conformity with the Convention. It requests the Government to provide information on the measures taken or envisaged in this regard. **2021**: *The Committee recalls that in its previous comment it had welcomed the Government's indication that a tripartite Working Group on the Improvement of Labour Legislation established in 2019 would examine, in 2019-2020, the issue of the* ***quorum required for a strike ballot****, considered by the Committee as too high, as well as the issue of minimum services requirement, with a view to bringing the Labour Code provisions into conformity with the Convention.* *The Committee notes the Government's indication that due to the COVID-19 pandemic situation, as well as a conflictual situation within the Federation of Trade Unions of Kyrgyzstan (FPK) between its previous and current leadership, the Tripartite Republican Commission has not met for a long period. The Government indicates, however, that the question of lowering the quorum will be discussed by the Tripartite Republican Commission and reiterates its understanding of the need to amend the Labour Code so as to ensure that the minimum service requirement is imposed only in respect of the operations which are strictly necessary to meet the basic needs of the population or to ensure that the relevant services operate safely or without interruption. The Committee expects that the Government will be in a position to report tangible progress in this regard in its next report.*

133. Latvia	2006 (Observations) 1998, 1999, 2000, 2002, 2003, 2004 (Direct requests)	Quorum and majority required for a strike ballot	**1998***: In addition and with respect to the new Law on Strikes of April 1998, the Committee notes that article 11(1) of the Law provides that the trade union shall make the decision on declaration of a strike at the general meeting of its members where at least* ***three-fourths of the employees of the trade union participate and that the decision shall be made if three-fourths of members of the respective trade union who are present have voted in favour of it.*** *In this regard, the Committee recalls that while it may be deemed appropriate to establish in a legislation provisions which require a vote by workers before a strike can be held, it should be ensured that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey, op. cit., paragraph 170). The Committee requests the Government to inform it in its next report of any measures it could envisage or contemplate in order to reduce the required quorum for a strike ballot to a more reasonable level.* *In addition, the Committee requests the Government to indicate whether the recourse to arbitration provided for in article 16 of the Law on Strikes can be initiated by only one party.* *The Committee also notes that article 32(2) of the Law on Strikes provides for the* ***right to organize meetings, processions and pickets*** *during the strike according to the procedure provided by the Law on Meetings, Processions and Pickets. In this regard, the Committee requests the Government to clarify in its next report the meaning of this provision and to send it a copy of the said Law in order to ensure its conformity with the principles of freedom of association.* **2000***: In its previous comments, the Committee requested the Government to amend section 11(1) of the Law on Strikes so as to reduce the required* ***quorum and majority for a strike ballot*** *to a reasonable level. In this respect, the Committee notes with satisfaction the* ***adoption of amendments*** *to the Law on Strikes providing the reduction of the required quorum for the vote to declare a strike from three quarters to one half of the members of a trade union or a company, who shall participate in a meeting which adopts the relevant resolution. A resolution shall be adopted by a simple majority of members of the trade union participating in the meeting. Furthermore, the Committee notes that the amendments prescribe the reduction of the term to be complied with by the strike committee prior to going on strike from ten days to seven days in order to inform the relevant institutions on the commencement of the strike.*

			2003: *The Committee notes that the Law on Strikes was amended in September 2002. The Committee regrets that the* ***amendment did not reflect its previous request to amend section 11(1) of the Law which required both a quorum and a majority of three-quarters of the union members in order to call a strike****. The Committee once again requests the Government to take the necessary measures to amend section 11(1) so as to reduce the required quorum and majority for a strike ballot to a reasonable level and keep it informed in this respect.* **2004**: *In its previous comments, the Committee requested the Government to amend section 11(1) of the Law on Strikes so as to reduce the* ***required quorum and majority for a strike ballot*** *to a reasonable level. The Committee notes the Government's indication that on 30 October 2003, the Labour Issues Tripartite Co-operation Sub-council adopted the decision to establish a tripartite working group for drafting amendments to the Law on Strikes. The Committee requests the Government to inform it of the progress made in elaborating the new law and trusts that it will take into account the comments of the Committee.*
134. Lithuania	2000, 2002, 2004, 2014 (Observations) 1997, 1998, 2004, 2006, 2014, 2021 (Direct requests)	Essential services and compensatory guarantees **(implemented in 2014)** - minimum service **(implemented in 2014)** - state of emergency - penal sanctions - public service - strikes in nuclear facilities - definition of strike	**2000**: *In its previous comments, the Committee recalled the principles it had formulated as regards the right to strike and requested the Government:* *(a) to amend section 10 of the Act of 1992 on the settlement of collective disputes to lift the prohibition of the right to strike by workers who are not employed in essential services in the strict sense of the term;* *(b) to define the compensatory guarantees afforded to workers employed in essential services in the strict sense of the term;* *(c) to specify the legal framework and procedure for declaring a state of emergency (as strikes may be prohibited in regions where such state is declared) under section 10 of the Act of 1992 on the settlement of collective disputes;* *(d) to indicate whether there existed penal provisions, enforceable by prison sentences, restricting the right of workers to participate in industrial action in public transport, and public and social services.* *1. The Committee notes that the Government merely repeats the information already provided as regards point (a), and that it did not reply as regards point (b). The Committee therefore requests, once again, the Government:*

			(a) to amend section 10 of the Act of 1992 on the settlement of collective disputes to ***lift the prohibition of the right to strike by workers who are not employed in essential services in the strict sense of the term;*** *(b) to supply information on the* ***compensatory guarantees*** *afforded to workers employed in essential services in the strict sense.* *In doing so, the Committee takes particularly into account the information provided by the LWU, which states that it is practically impossible to declare a legal strike under the Act of 1992 on the settlement of collective disputes as, for instance, in a recent dispute, which is the subject matter of a pending complaint before the Committee on Freedom of Association: the City of Vilnius has invoked section 12 of this Act to order that 70 per cent of the city transport operation be maintained as a minimum service; and recourse to section 13 of the same Act has been made, which provides that the courts may "for specially important reasons" delay for 30 days a strike that has not yet begun and delay for a further period of 30 days a strike that has already begun.* *The Committee refers once again to the principles it has developed on these issues (see the 1994 General Survey on freedom of association and collective bargaining, paragraphs 152-164). The Committee considers that while authorities may establish a* ***system of minimum service in sectors such as public transport****, it must be a genuinely minimum service, that is one which is limited to meeting the basic needs of the population while maintaining the effectiveness of strike pressure. In the Committee's view, 70 per cent of the city transport operation cannot be considered an acceptable minimum service. Furthermore, the workers' organization affected should be able to participate in the definition of this minimum service with the employer and the public authorities.* *2. The Committee notes, as regards point (c) above, that the Ministry of Internal Affairs is currently drafting the Act which will regulate* ***situations of state of emergency****. The Committee recalls that such restrictions should be for limited periods and may only be justified in situations of acute national crisis (see General Survey, op. cit., paragraphs 41 and 152).* *3. The Committee notes, as regards point (d) above, that the relevant sections of the* ***Criminal Code*** *were abrogated by Law No. I.551, and that a new draft Criminal Code submitted to the Parliament on 18 November 1999 should be adopted in year 2000; the Committee requests the Government to transmit, in its next report, the text of Law No. I.551 as well as the relevant provisions of the new Criminal Code.*

			2002: *Articles 3 and 10 of the Convention. Right of workers' organizations to organize their activities without interference from the public authorities. The Committee recalls that in its* ***previous comments*** *it had noted that the Act of 1992 on the Settlement of Collective Disputes created serious obstacles to the right to legal strike [...]* *The Committee notes the statement in the Government's report that the Act of 1992 on the Settlement of Collective Disputes will be replaced by a new Labour Code which was adopted on 4 June 2002 and will enter into force on 1 January 2003. The Committee will examine the text of the new Labour Code at its next session when it will be available in translation. In the meantime, and in light of the information provided by the Government in respect of the new Labour Code, the Committee wishes to raise the following points:* *[...]* *(b)* ***Unilateral determination of minimum service.*** *The Committee notes from the report that according to section 80.2 of the new Labour Code, the Government has the authority to define the minimum service after having considered the conclusions of a Tripartite Board or, in the absence of a Tripartite Board, those of the municipal authorities in consultation with the parties to the dispute. The Committee wishes to emphasize the importance that it attaches to genuine participation of the parties directly concerned, that is, the organizations of employers and workers, alongside the public authorities in the definition of a minimum service. The Committee observes that, as noted by the Committee on Freedom of Association in Case No. 2078, in the event of disagreement, the parties should be able to bring the matter before an independent and impartial body with competence to make a final ruling on this matter. The Committee therefore requests the Government to amend its legislation so as to ensure that in the event of disagreement among the parties to negotiations on the minimum service, the definition of the service to be ensured may be determined by an independent and impartial body.* *(c)* ***Prohibition of strikes during a state of emergency and penal sanctions against strike action.*** *Concerning limitations of the right to strike during a state of emergency, the Committee notes from the Government's report that according to the State of Emergency Act of 6 June 2000, No. IX-938, a state of emergency can be declared for successive six-month periods. The Committee recalls that restrictions on the right to strike during a state of emergency should be for limited periods and may only be justified in situations of acute national crisis. The Committee requests the Government to transmit in its next report the text of Act No. IX-938.*

			The Committee takes note of the text of Act No. I-551 of 2000 which has been transmitted with the Government's report, and will examine it at its next meeting when it will be available in translation. The Committee also notes the amendments to the Criminal Code which have been transmitted by the Government. The Committee observes that article 199(3) of the amended Criminal Code imposes a penalty of imprisonment of up to three years or corrective works of up to two years, or a fine, in case of participation in collective action which causes disturbance to work in the sector of transportation or in public or social enterprises, establishments and organisations, and that article 199(4) enforces the prohibition of strikes at nuclear energy facilities with a sentence of two years of corrective works. The Committee furthermore observes that article 67 of the amended Criminal Code characterizes as an act of "sabotage" punishable by a ten-year term of imprisonment, any action aimed at obstructing the proper functioning of public or other enterprises in the sectors of industry, energy, transportation, agriculture, trade, other branches of the economy, or the public sector, with a view to weakening the State of Lithuania. The Committee observes that ***such provisions are highly likely to have the practical effect of restricting the right of workers to participate in industrial action by characterizing their activities as criminal acts punishable by penal sanctions****. The Committee wishes to emphasize that if measures of imprisonment are to be imposed at all, they should be justified by the seriousness of the offences committed (see General Survey, op. cit., paragraph 177). The Committee requests the Government to amend these provisions so as to ensure that penal sanctions may not be imposed for the exercise of the right to strike and that if penalties are imposed, in exceptional circumstances, they should be justified by the seriousness of the offences committed and accompanied by all the necessary judicial safeguards.* *[…].* *(e)* ***Court rulings ordering a postponement of a strike****. The Committee notes that the Government has not provided any information concerning section 13 of the Act of 1992 on the Settlement of Collective Disputes and in particular, whether this provision has been amended by the new Labour Code in order to define in more precise terms the legal grounds on which the Courts may decide to postpone a strike. The Committee requests the Government to communicate information on this point in its next report.* **2004:** *The Committee notes section 77(1) of the Labour Code which provides that* ***a strike shall be declared if a corresponding decision is approved by secret ballot by two-thirds***

			of the enterprise's employees voting in favour of a strike in the enterprise; and two-thirds of the employees of a structural subdivision of the enterprise and at least half of the employees of the enterprise vote in favour of a strike in the structural subdivision of the enterprise. *The Committee recalls that, if a member State deems it appropriate to establish in its legislation provisions which require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see General Survey on freedom of association and collective bargaining, 1994, paragraph 170). The Committee therefore considers that the observance of the quorum provided for in section 77(1) of the Code may be difficult to reach and therefore hinder the possibility of carrying out a strike. The Committee requests the Government to take the necessary measures to amend section 77(1) so as to lower the required quorum and keep it informed of the measures taken or envisaged in this respect.* *Concerning the* ***Committee's previous request*** *to indicate the* ***personnel of internal services concerned by the prohibition of strikes*** *provided for in section 78 of the Labour Code, the Committee notes the Government's statement that this prohibition concerns all employees of the system of internal affairs. As it is still not quite clear which employees are concerned by this prohibition, the Committee recalls that the prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State (see General Survey, op. cit., paragraph 158). It therefore requests the Government to take the necessary measures in order to ensure that the prohibition of the right to strike in the system of internal affairs is limited to public servants exercising authority in the name of the State.* *In its* ***previous comments****, the Committee requested the Government to provide details on the composition and functioning of the Tripartite Board and the extent to which the Government is bound to follow up on its conclusions in settling the claims of workers employed in essential services in the strict sense of the term, who are prohibited from striking. The Committee notes the information provided by the Government in this respect that, although the Tripartite Council - formed on the basis of an equal tripartite partnership - analyses and proposes to the Government possible solutions, the final decision is taken by the Government, as all enterprises and services in essential services are state-owned or related to objects of state significance. The Committee wishes to recall*

			in this respect that, ***where restrictions are adopted on the right to strike of workers who are employed in essential services in the strict sense of the term, compensatory guarantees should include appropriate, rapid and impartial conciliation and mediation procedures*** *and the bodies entrusted with such functions should be independent and have the confidence of both workers and employers. The Committee therefore feels that it would be more appropriate if the conclusions made by the Tripartite Council were final and binding, subject to review by an independent body, and in any case they should not lay with the discretionary authority of the State. It requests the Government to keep it informed of measures taken to ensure that the compensatory guarantees available to those whose strike action is restricted are seen to be impartial and reliable to the parties concerned. It further requests the Government to provide any decision taken pursuant to Tripartite Council conclusions.* *The Committee recalls that, in its previous report, the Government transmitted the amendments to the Criminal Code. The Committee observed on that occasion that section 199(4) of the amended Criminal Code provided that* ***"organization of a strike at a nuclear facility is punishable by a penalty of corrective works for the period of up to two years or a fine"****. The Committee notes, however, the Government's indication that the Code does not provide for criminal liability for engaging in strike preparations at nuclear facilities. The Committee therefore requests the Government to indicate the precise meaning of section 199(4) of the Criminal Code. It further requests the Government to keep it informed of any use of sections 67, 199(3) and 199(4) of the Criminal Code in respect of industrial action.* *The Committee also requests the Government to indicate in its next report whether workers may initiate protest action in respect of the social and economic policy of the Government and have recourse to sympathy strikes, without sanction.* **2021***: The Committee notes section 244(1) of the Labour Code (2017) according to which,* ***a strike is a stoppage of work by employees organized by a trade union or trade union organization in an effort to resolve a collective labour dispute on interests or ensure compliance with the decision reached in resolving such a dispute****. The Committee considers that trade unions and employers' organizations responsible for defending socio-economic and occupational interests should be able to use, respectively, strike action or protest action to support their position in the search for solutions to problems posed by*

			major social and economic policy trends which have a direct impact on their members (see the 2012 General Survey on the fundamental Conventions, paragraph 124). Recalling that organizations responsible for defending workers socio-economic and occupational interests should be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and on workers in general, the Committee requests the Government to indicate whether under the legislation in force trade unions can have recourse to protest strikes against the Government's economic and social policies.
135. Luxembourg	NO COMMENTS		
136. Malta	1989, 1991, 1993, 1995, 1996, 1998, 1999, 2000, 2002, 2004, 2006, 2007, 2008, 2009, 2010, 2011, 2014, 2015, 2016, 2017, 2021 (Observations)	Compulsory arbitration	**1989***: Referring to its* ***earlier comments*** *on the compulsory disputes settlement system (sections 27 and 34 of the Industrial Relations Act, 1976), the Committee notes the* ***reply of the Government stating that compulsory arbitration has existed in this country since 1949, that it constitutes a means of promoting the quick settlement of industrial disputes without protracted industrial action, that unions and employers have so far always respected the awards of the Industrial Tribunal, and that the latter's effectiveness and credibility would be seriously impaired if its decisions were not binding on both parties.*** *The Government also states that it is carefully studying the observations of the Committee and that they will be given due weight when introducing a Bill in Parliament to amend the Industrial Relations Act.* *The Committee points out that binding arbitration procedures whether or not preceded by a conciliation step must be designed to facilitate bargaining between the two sides. This means that it should be for the parties to decide whether or not they wish to refer any matters in dispute to binding arbitration. However, given that section 27 of the Industrial Relations Act 1976 empowers the Minister, when the conciliation efforts have not produced a settlement, to refer a dispute to the Industrial Tribunal at the request of any of the parties, and since the award of the tribunal is binding and entails the prohibition of recourse to strikes,* ***the Committee can only insist that such prohibitions or interruptions of strikes should be confined: (a) to public servants acting in their capacity as agents of the public authority; (b) to services whose interruption would endanger the life, the personal safety or health of the whole or part of the population, or (c) in situations of acute national crisis.*** *The Committee can only insist that the Government should re-examine the situation in the light of its comments and take the necessary measures in the near future to bring its*

			legislation into conformity with Article 3 of the Convention, and requests to keep it informed of developments in that respect. **1996***: The Committee notes the information provided by the Government in its reports. It notes that the representatives on the tripartite Malta Council for Economic Development have agreed that there is a need to improve the machinery available for conciliation in trade disputes so as to promote speedy, voluntary settlements and to improve and expedite the arbitration procedures. It further notes the Government's indication that the consultation process has reached an advanced and delicate stage which will hopefully lead to the presentation of amendments to the Industrial Relations Act to Parliament within the not too distant future.* ***The Committee must recall that it has been making comments on the incompatibility between the Industrial Relations Act and the provisions of the Convention since 1970.*** *It must therefore regret that the Government has only been able to reiterate its previous indications that the proposals to amend the Act are being studied by the Malta Council. It would recall that the discrepancies between the legislation and the Convention have to do, in particular, with the broad use of compulsory arbitration, whereas recourse to such arbitration should be restricted to the following cases: (a) public servants exercising authority in the name of the State; (b) essential services whose interruption would endanger the life, personal safety or health of the whole or part of the population; (c) situations of acute national crisis; or (d) cases in which both parties request arbitration. The Committee hopes that the Government will take the necessary measures in the very near future to bring its legislation into conformity with the Convention and recalls that ILO technical assistance is available to assist in the formulation of amendments to give effect to the Convention if the Government so desires.* **1998***: The Committee takes note of the information provided by the Government in its report. It notes in particular that a subcommittee of the Malta Council for Economic Development is examining the Industrial Relations Act with the aim of proposing appropriate amendments in order to improve voluntary procedures for the settlement of trade disputes. It further notes the Government's indication that an agreement has been reached concerning the setting up of a panel of mediators from outside the Department of Labour and that proposals have been made for facilitating hearings by the industrial tribunal. However,* ***the Government also indicates that while the discussion on these***

			issues is still ongoing, there exists a consensus of agreement amongst the social partners represented in the Council that the repeal of the provisions of the Industrial Relations Act relating to resort to arbitration at the request of one of the parties in a trade dispute is premature. *While noting that some progress has been made in the discussions of the Council since the Government's last report,* ***the Committee has to recall once again that it has been making comments on the incompatibility between the Industrial Relations Act and the provisions of the Convention for more than 20 years*** *and therefore regrets that the discussions on the proposals to amend the Act are still at the stage of consultation and that the repeal of the provision on the resort to arbitration at the request of one of the parties is considered premature by the Council.* **1999***: The Committee takes note of the information provided by the Government in its report and notes in particular that a subcommittee of the Malta Council for Economic Development is still examining the Industrial Relations Act with the aim of formulating the amendments needed to improve voluntary procedures for the settlement of industrial disputes. The Government also indicates that it will inform the Committee once discussions on the amendments have concluded.* ***The Committee regrets that discussions on the amendments to the Act in question have been continuing now for over ten years*** *and can only reiterate the discrepancies between the legislation (sections 27-34 of the 1976 Industrial Relations Act) and the Convention relating to the discretionary powers of the Minister to impose compulsory arbitration whereas such recourse should be restricted to the following cases: (a) public servants exercising authority in the name of the State; (b) essential services, namely those the interruption of which would endanger the life, safety or health of the whole or part of the population; (c) situations of acute national crisis; or (d) cases in which both parties request arbitration.* *The Committee requests the Government to keep it informed in its next report of discussions in the Malta Council for Economic Development and expresses again the firm hope that the Government will take the necessary measures in the very near future to bring its legislation into greater conformity with the Convention.*

			2021*: In **its previous observations**, the Committee requested the Government to amend section 74(1) and (3) of the EIRA – according to which, **if an amicable settlement of a trade dispute and conciliation has not resulted in a settlement, one of the parties may notify the Minister, who shall refer the dispute to the Industrial Tribunal for settlement** – so as to ensure that compulsory arbitration to end a collective labour dispute is only possible in the case of disputes in the public service involving public servants exercising authority in the name of the State or in essential services in the strict sense of the term. The Committee notes the Government's indication that: (i) the mechanism provided by the abovementioned section is to be used in case of failure of conciliation as facilitated under section 69 of the EIRA; (ii) the purpose of the Industrial Tribunal would be gravely undermined if a party could not challenge another party unless the latter agrees; and (iii) since the Industrial Tribunal has exclusive jurisdiction on trade disputes, the parties cannot resort to other means such as the civil courts. The Committee once again recalls that recourse to compulsory arbitration to bring an end to a collective labour dispute is only acceptable when the two parties to the dispute so agree, or when a strike may be restricted or prohibited – that is, in the case of disputes concerning public servants exercising authority in the name of the State, essential services in the strict sense of the term or situations of acute national crisis. It further recalls that accordingly, the failure of conciliation and the existence of protracted disputes are not per se elements which justify the imposition of compulsory arbitration. The Committee urges the Government to take the necessary measures to modify section 74(1) and (3) of the EIRA to ensure that compulsory arbitration may only take place with the approval of both parties or in circumstances in which a strike can be restricted or prohibited. The Committee requests the Government to inform on any developments in this respect.*
137. Montenegro	2021 (Observation) 2008, 2010, 2015, 2017 (Direct requests)	Responsibility for declaring a strike illegal - compulsory arbitration - minimum services	**2021**: *In **its previous comment**, the Committee noted that under section 18 of the Law on Strikes, 2015, **the police, employees of state bodies and the public service could organize a strike in a way that would not endanger national security, safety of persons and property, the general interest of citizens or the functioning of government authorities and that in such occupations, minimum services must be ensured**. Having noted that it was the prerogative of the **state authority responsible for national security to determine whether the organization of a strike endangered the general interest of citizens and functioning of government authorities**, the Committee requested the Government to take the necessary measures to amend the Law on Strikes in consultation with the social*

			partners so as to ensure that responsibility for declaring a strike illegal rests with an independent body that has the confidence of the parties involved. *The Committee notes the Government's indication that: (i) in line with section 7, work disruption not organized in accordance with the provisions of the Law on Strikes shall be considered an illegal strike; (ii) section 31 of the Law provides that the employer, the representative association of employers, the representative trade union or the strike committee can initiate a procedure for determining the illegality of a strike or unlawful dismissal, which will be decided upon by the competent court within five days of such a request (this provision applies to any organized strike regardless of the area of activity in which it is organized); and (iii)* ***the assessment under section 18 of whether the organization of a strike for the above employees endangers the general interest of citizens and functioning of government authorities is done by the public authority responsible for national security.*** *While taking due note of this indication, the Committee understands that even if section 18 does not, in its wording, refer to the determination of the legality of a strike (which is regulated by section 31, providing for a judicial determination irrespective of the area of activity in which the strike is organized), section 18 provides for an assessment by a public authority of whether a strike endangers the general interest of citizens and functioning of government authorities and thus, whether it can lawfully take place under section 18 or not. The Committee notes in this regard the observations made by the UFTUM that: (i) at the drafting stage, a representative from the UFTUM warned that section 18 was not sustainable as the National Security Agency was a security intelligence service whose work implied the secrecy of information; (ii) the National Security Agency may declare that a strike endangers the public interest, and is therefore illegal, without prescribed clear criteria, acting in its own discretion and without the possibility of objections from the initiators of the strike; and (iii) the UFTUM submitted an initiative to review the constitutionality of section 18 of the Law on Strikes after its entry into force but has not yet received a response from the Constitutional Court. While noting the Government's submission that Article 9 of the Convention leaves it to Members States to determine the extent to which the guarantees of the Convention apply to members of the armed forces and the police, the Committee observes that section 18 of the Law on Strikes also regulates the right to strike of employees of state bodies and the public service who are not excluded from the scope of the Convention under Article 9 and who, unless they are engaged in essential services in the strict sense of the term or*

			exercising authority in the name of the State, should benefit from the right to strike. In view of the above, the Committee once again requests the Government to take the necessary measures to amend the Law on Strikes in consultation with the social partners so as to ensure that any determination of whether a strike organized under section 18 endangers the general interest of citizens and functioning of government authorities, and is therefore illegal, is the prerogative of an independent body that has the confidence of the parties involved. The Committee also requests the Government to provide information on the current status of the initiative to review the constitutionality of section 18 filed to the Constitutional Court by the UFTUM. **2008***: The Committee notes that section 124 of the Labour Law provides that the* ***"[r]esolution of disputes arising during the processes of contracting, implementing, amending and complementing collective agreements shall be submitted to arbitration".*** *Section 6(3) of the Law on Strikes provides that if a dispute is not resolved within 30 days, the parties must refer it to arbitration, in accordance with the Labour Law. The Committee therefore notes that the law lays down a system where compulsory recourse to binding arbitration makes it possible to prohibit virtually all strikes or end them quickly. This seriously limits the means available to trade unions to further and defend the interests of their members, as well as their right to organize their activities and to formulate their programmes (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 153). The Committee therefore requests the Government to indicate in its next report the measures taken or contemplated to repeal section 124 of the Labour Law and section 6(3) of the Law on Strikes which impose compulsory arbitration on all disputes without distinction. The Committee recalls that compulsory arbitration is acceptable in certain cases which are discussed below.* *Section 12(3) of the Law on Strikes provides* ***that in case a dispute in activities of general interest is not resolved by the day announced for the staging of a strike, the parties to the dispute must bring the dispute to arbitration, pursuant to the law or the collective agreement****. Activities of general interest are defined in section 9 of the Law on Strikes as activities whose termination, due to their nature, might jeopardize the life and health of the people or cause damage on an enormous scale, and in particular: electric power industry, water supply, transportation, postal and telecommunication services, information dissemination (radio and television), utility services (production and supply of water, garbage collection, production, distribution and supply of energy products, etc.),*

			fire brigade, production of elementary food products, health care and veterinary medicine, education, culture, social care of children, and social welfare; also, activities of special importance for the Republic's defence and security, as well as activities necessary for conducting international tasks, set by international agreements, as well as activities whose termination, owing to their nature and in terms of this Law, might jeopardize the life and health of the people or cause damage on an enormous scale. *The Committee recalls that compulsory arbitration is acceptable only with the agreement of both parties, in essential services in the strict sense of the term, and for public servants exercising authority in the name of the State. It therefore requests the Government to amend sections 9 and 12(3) of the Law on Strikes concerning compulsory arbitration in activities of general interest, so as to limit the possibility of imposing compulsory arbitration only to essential services in the strict sense of the term and public servants exercising authority in the name of the State.* *The Committee notes that according to section 10 of the Law on Strikes,* ***a strike in an activity of general interest is subject to the provision of a minimum service.*** *Such* ***minimum service shall be determined under section 10(2) "by the founder, employer's manager or executive manager who base their decision on the nature of the undertaking, the level of risk for people's lives and health, and other circumstances which are important for meeting the needs of citizens, employers and other parties****".* *The Committee also notes that according to section 10(3) when defining the minimum service, the employer may receive the opinion of the employees' council. Given that under section 4 of the Labour Law, there may be in the same undertaking an employees' council and a trade union, it would therefore seem that the employer does not receive the opinion of the trade union representative but rather the employees' representative in determining the minimum service.* *Although the Committee considers that in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, the authorities could establish a system of minimum service in services which are of public utility; such a service should meet at least two requirements. Firstly, and this aspect is paramount, it must genuinely and exclusively be a minimum service, that is, one which is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear. Secondly, since this system*

			restricts one of the essential means of pressure available to workers to defend their economic and social interests, their organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities. It would be highly desirable for negotiations on the definition and organization of the minimum service not to be held during a labour dispute, so that all parties can examine the matter with the necessary objectivity and detachment. The parties might also envisage the establishment of a joint or independent body responsible for examining rapidly and without formalities the difficulties raised by the definition and application of such a minimum service and empowered to issue enforceable decisions (see General Survey, op. cit., paragraphs 160–161). The Committee requests the Government to amend section 10 of the Law on Strikes so as to ensure that the minimum service is determined with the participation of the trade union concerned and that in case of disagreement, the matter is decided by an impartial body. **2017***:* Right to organize activities in full freedom. *The Committee notes that section 18 of the Law on Strikes of 2015 provides* ***that police, employees of state bodies and the public service can organize a strike in a way that will not endanger national security, safety of persons and property and the general interest of citizens, as well as the functioning of government authorities. In such occupations, minimum services, as determined by tripartite partners must be ensured*** *(sections 22 and 23). Section 18 also provides that the* ***assessment as to whether the organization of the strike endangers the general interest of citizens and functioning of government authorities shall be given by the state authority responsible for national security, within 24 hours of the announcement of the strike****. In this respect, section 19 lists certain activities of public interest the interruption of which could endanger, among others, the general interest of citizens. The Committee notes that the listed services appear to be either essential services in the strict sense of the term or services of fundamental importance. Concerning the assessment by the state authority responsible for national security referred to in section 18, the Committee recalls that the responsibility for declaring a strike illegal should not lie with the Government authorities, but with an independent body that has the confidence of the parties involved.* The Committee therefore requests the Government to take the necessary measures to amend the Law on Strikes in consultation with the social partners so as to *ensure that responsibility for declaring a strike illegal rests with an independent body that has the confidence of the parties involved.*

138. Netherlands	2017, 2021, (Direct requests)	Striker replacement	**2017***: The Committee notes the observations received on 31 August 2017 from the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation for Professionals (VCP), referring in particular to the alleged* ***use in practice of agency workers to break strikes****. The Committee requests the Government to provide its comments in this respect.* **2021***: In* ***its previous comments****, the Committee requested the Government to provide its comments on the use* ***in practice of agency workers to break strikes*** *– as alleged by the FNV, the CNV and the VCP. The Committee notes the Government's indication that: (i) article 10 of the Dutch Posting of Workers by Intermediaries Act (Waadi) prohibits temporary employment agencies to provide workers to a company during a strike within that company; (ii) in the event of suspicion of non-compliance with this article, social partners or other parties concerned can submit a formal request to the Social Affairs and Employment Inspectorate (Inspectorate SZW) which conducts an extensive investigation regarding all facts and circumstances relevant for the specific situation and working relationship; (iii) the Inspectorate SZW has no legal means to enforce article 10 Waadi apart from conducting an investigation and issuing a report. It is up to the reporting party or parties to go to civil court and to make use of the facts presented in the report by the Inspectorate SZW.* *The Committee also takes note of the 2021 observations of the FNV and the CNV according to which the* ***Inspectorate SZW does not always have immediate access to the workplace to detect a violation of the strike-breakers ban****, as evidenced by various collective actions that have taken place in recent years at Schiphol Airport, where many ISZW inspectors have no direct access behind customs due to the specific regulations on the Schiphol territory. They allege that, after a violation has been established, it takes a year or longer before ISZW issues a report and that, when a trade union subsequently starts legal proceedings against the offenders, the civil court imposes damages of no more than 5,000 euros per offender, which are not dissuasive. Moreover, the Committee notes that these two workers' organizations denounce the so-called "intra concern exception" contained in the Waadi, which makes it possible for a subsidiary to fly in employees to serve as strike-breakers with impunity in the event of a strike. Finally, the Committee takes note of the complaint lodged in July 2021 by the European Trade Union Confederation (ETUC), the FNV and the CNV before the European Committee of Social Rights in which they allege, inter alia, that the manner in which Dutch higher and lower courts impose*

			restrictions on collective actions is not in conformity with the European Social Charter. In view of the above and in particular the last observations from the FNV and the CNV according to which the strike-breakers ban lacks effectiveness, the Committee requests the Government to continue to provide detailed information on the application in practice of article 10 of the Dutch Posting of Workers by Intermediaries Act (Waadi) which prohibits temporary employment agencies to provide workers to a company during a strike within that company.
139. North Macedonia	2019, 2022 (Observations) 2006, 2007, 2008, 2010, 2012, 2016, 2018 (Direct requests)	Duration of a strike - disciplinary penalties - determination of minimum services - exclusion of employees from the workplace during a strike - public service - minimum service - replacement of striking workers in non-essential services - public servants - sanctions - duration of a strike	**2006***: The Committee notes that, according to section 236(5) of the Law, the strike notice shall include the* ***indication of duration of the strike****. The Committee considers that requiring workers and their organizations to specify the length of a strike would restrict the right of workers' organizations to organize their administration and activities and to formulate their programmes. The Committee requests the Government to take the necessary measures to amend its legislation so as to ensure that no legal obligation to indicate the duration of a strike is imposed on workers' organizations and to keep it informed of measures taken or envisaged in this regard.* *The Committee notes, moreover, that section 239(3) of the Law provides that an employee may be dismissed if he or she organized or participated in a strike, which was not organized in compliance with the law. The Committee is of the view that workers should not be subject to* ***disciplinary penalty****, including dismissal, for example, not ending a strike on a predetermined date, as it would restrict the right of workers' organizations to organize their activities and formulate their programmes. The Committee asks the Government to take the necessary measures to amend its legislation so as to ensure that disciplinary penalties cannot be imposed on workers for failure to end a strike on a predetermined date and to keep it informed of measures taken or envisaged in this respect.* *The Committee notes that, according to section 238(4) of the Law,* ***if no agreement can be reached on the minimum services, the employer or the trade union may demand that the arbitration makes the decision****. The Committee recalls that, in the event of a disagreement on the minimum services, a joint or independent body should issue enforceable decisions. The Committee therefore requests the Government to provide information on the arbitration referred to by section 238(4) and, in particular, on the composition thereof.* *The Committee requests the Government to provide information on the purpose and practical application of section 237 of the Law on the possible* ***exclusion of employees from the working process during a strike****.*

			The Committee notes section 245 of the Law, which provides that a strike in the government administration, public enterprises and institutions is regulated by a special law. The Committee requests the Government to provide the relevant legislation in respect of the ***right to strike of workers employed in the public sector.*** **2018**: *The Committee takes note of the Law on Public Enterprises provided by the Government, together with the Government's indications and the Law on Employees in the Public Sector, according to which: (i) employees in the public sector are entitled to strike under the Constitution, the laws and the ratified international treaties; (ii) employees in the public sector are obliged to provide minimum services taking into account the rights and interests of citizens and legal entities; and (iii) in accordance with the applicable laws and collective agreements, the head of the respective institution determines the performance of the institutional activities of public interest that are to be maintained during a strike, the manner in which the minimum service will be carried out and the number of employees that will provide services during the strike. In this regard, the Committee recalls that the* ***maintenance of minimum services in the event of strikes should only be possible in certain situations,*** *namely: (i) in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term); (ii) other services in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population; (iii) in public services of fundamental importance; and (iv) to ensure the security of facilities and the maintenance of equipment.* ***A minimum services imposed should meet at least two requirements****: (i) it must* ***genuinely and exclusively be a minimum service****, that is one which is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear; and (ii) since this system restricts one of the essential means of pressure available to workers to defend their interests,* ***their organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities*** *(see the 2012 General Survey on the fundamental Conventions, paragraphs 136 and 137). The Committee requests the Government to take, in consultation with representative public employee organizations, any necessary measures to ensure the respect of the principles recalled above for the determination of minimum services in public enterprises; and to provide further information concerning such determination in practice (in particular as to the types of activities and percentage of employees typically*

			affected by a determination of minimum services, as well as the possibility for employee organizations to participate in the definition of the minimum services). *The Committee further observes that the Law on Primary Education (section 38(7)) and the Law on Secondary Education (section 25(2)) provide that* ***when the educational activity is interrupted due to a strike, the director of the school concerned shall, upon prior consent from the competent authorities, be obliged to provide for the realization of educational activities by replacing the striking employees****. The Committee recalls that teachers and the public education services may not be considered an essential service in the strict sense of the term (services the interruption of which would endanger the life, personal safety or health of the whole or part of the population) and that provisions allowing for the replacement of striking workers are a serious impediment to the legitimate exercise of the right to strike. The Committee requests the Government to amend section 38(7) of the Law on Primary Education and section 25(2) of the Law on Secondary Education, so as to remove the possibility of replacing striking workers and enable workers in the primary and secondary education sectors to effectively exercise their right to strike.* **2022**: ***In its previous comments*** *the Committee had noted that, under the Law on Public Enterprises and the Law on Employees in the Public Sector: (i) employees in the public sector are entitled to strike; (ii) employees in the public sector are obliged to provide minimum services taking into account the rights and interests of citizens and legal entities; and (iii) in accordance with the applicable laws and collective agreements, the head of the respective institution determines the performance of the institutional activities of public interest that are to be maintained during a strike, the manner in which the minimum service will be carried out and the number of employees that will provide services during the strike. In this respect, the Committee recalled that the* ***maintenance of minimum services*** *in the event of strikes should only be possible in certain situations, namely: (i) in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term); (ii) other services in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population; (iii) in public services of fundamental importance; and (iv) to ensure the security of facilities and the maintenance of equipment. The Committee further recalled that minimum services imposed should meet at least two requirements: (i) must genuinely and exclusively be minimum services, that is limited to the operations which are strictly necessary to meet the*

			basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear; and (ii) since this system restricts one of the essential means of pressure available to workers to defend their interests, their organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities. The Committee welcomes the Government's indication that it will take appropriate measures to ensure compliance with the Convention of the provisions in the Law on Public Enterprises and in the Law on Public Sector Employees. ***The Committee requests the Government to take, in consultation with representative public employee and public employer organizations, any necessary measures to ensure the determination of minimum services in public enterprises conforms with the situations described above,*** *and to provide further information concerning such determination in practice (in particular as to the types of activities, and percentage of employees in those activities, that have been affected by a determination of minimum services, as well as the possibility for employee organizations to participate in the definition of minimum services).* *In* ***its preceding comment*** *the Committee had requested the Government to amend section 38(7) of the Law on Primary Education and section 25(2) of the Law on Secondary Education, which oblige the school directors to provide for the realization of educational activities by replacing the striking employees when the educational activity is interrupted due to a strike. The Committee notes the Government's indication that it started amending the articles concerned to align them with the Convention but observes that, subsequently, a new Law on Primary Education was published on 5 August 2019, including a similar provision to require the replacement of striking workers. Pursuant to section 50(7), of the new Law on Primary Education, in case of a suspension of the educational and pedagogical work due to strike action, the principal of the primary school, upon receiving a previous consent by the Mayor, and by the Minister in the case of state primary schools, shall be obliged to ensure the performance of the educational and pedagogical work by substituting the striking workers for the duration of the strike action. In this regard, the Committee must recall that teachers and the public education services may not be considered an essential service in the strict sense of the term (services the interruption of which would endanger the life, personal safety or health of the whole or part of the population) and that provisions allowing for the replacement of striking workers are a serious impediment to the legitimate exercise of the right to strike.* ***Regretting the lack of progress in this respect, the Committee once again requests the Government to amend***

			the Law on Primary Education and the Law on Secondary Education, so as to remove the possibility of replacing striking workers and to enable workers in the primary and secondary education sectors to effectively exercise their right to strike, as well to provide a copy of the amended legal texts once adopted.
140. Norway	1989, 1992, 1993, 1995, 1996,1997, 1998, 2000, 2001, 2002, 2004, 2006, 2008 (Observations)	Legislative interference and compulsory arbitration - essential services	**1989**: *The Committee notes the information set out in the Government's report. The Committee also notes the conclusions of the Committee on Freedom of Association in Case No. 1389 (251st Report of the Committee, approved by the Governing Body at its 236th Session (May-June 1987)) and in Case No. 1448 (262nd Report of the Committee, approved by the Governing Body at its 242nd Session (February-March 1989)).* *Both of these cases involved complaints against legislative proscription of strike action in Norway. The Committee recalls that the Committee on Freedom of Association had to deal with very similar issues in Case No. 1099 (217th Report of the Committee, approved by the Governing Body at its 220th Session (May-June 1982)) and in Case No. 1255 (234th Report of the Committee, approved by the Governing Body at its 226th Session (May-June 1984)). In all four cases the Committee on Freedom of Association determined that the legislation in question was inconsistent with the principles of freedom of association.* *The Committee has always taken the view that the right to strike is one of the essential means available to workers and their organisations for the promotion and protection of their economic and social interests (General Survey, 1983, paragraph 200). Any substantial interference with this right may impair the capacity of trade unions to further and defend the interests of their members and to organise their activities (General Survey, 1983, paragraph 226).* *The Committee has nevertheless recognised that the right to strike may be attenuated in certain circumstances. It has, for example, accepted that, subject to appropriate safeguards, strike action may be proscribed in relation to public servants acting in their capacity as agents of the public authority, or in relation to essential services in the sense of those services whose interruption would endanger the life, personal safety or health of the whole or part of the population (General Survey, 1983, paragraph 214). It has also*

			accepted that the right to strike may be suspended for a limited period in situations of acute national crisis (General Survey, 1983, paragraph 206). *In its report, the Government states that the right to strike is recognised in Norway as an integral part of the right to free collective bargaining. It also acknowledges that on occasion the exercise of this right must inevitably cause inconvenience to third parties and to society as a whole. The Government goes on to point out that the supervisory bodies of the ILO have recognised that in some circumstances such consequences are so serious in nature as to justify the imposition of restrictions on the right to strike. In Norway such restrictions are not embodied in any permanent legislative enactment. Instead, each individual dispute is assessed on its merits. If the Government, after a thorough evaluation of the consequences of a strike, finds that they are of such a nature as to endanger the life, personal safety or health of the whole or part of the population, then it submits a Bill to Parliament proposing that the matter be referred to the National Wages Board for final arbitration. When the Parliament is not sitting, section 17 of the Constitution permits the King to attain the same objective by means of an ordinance. Such ordinances can remain in force only until the Parliament next meets.* ***According to the Government there is a broad political consensus as to the appropriateness of this course. This is reflected in the fact that in the few cases where the Parliament has adopted such measures, it has done so by a large majority.*** *In its report, the Government indicates that this procedure has been utilised on seven occasions since 1982, four of them in the oil industry.* ***As regards the effects of disputes in the oil industry, the Government refers to information provided in relation to Cases Nos. 1255 and 1389. In the Government's view this information established that intervention was justified by reason of the widespread economic dislocation which would result from a prolonged dispute in the oil industry, and by reason of the safety problems which could be engendered, or exacerbated, by a protracted work stoppage.*** ***In its report, the Government also provides detailed information relating to the circumstances which in its opinion justified legislative intervention in the public sector (1984 and 1986) and in the chemical industry (1985).***

			The Committee recognises that these disputes may have involved a substantial measure of social or economic dislocation. However, as the Government itself has acknowledged, such disruption is an inevitable incident of the exercise of the right to strike (see also General Survey, 1983, paragraph 199). The Committee reiterates that it is only where the ***dislocation constitutes a danger to the life, personal safety or health of the whole or part of the population or in a situation of acute national crisis that the public interest justifies curtailment of the right to strike****.* *The Committee also reminds the Government that in both Cases Nos. 1255 and 1389 the Committee on Freedom of Association found that the legislative interventions in question were not consistent with the principles of freedom of association. The Committee can only endorse these findings, and again draw the attention of the Government to the fact that it has consistently stated that* ***legislative interference with the right to strike is justified only in relation to public servants acting in their capacity as agents of the public authority and in relation to essential services stricto sensu****.* *In addition, these prohibitions may also seriously erode the efficacy of the entire collective bargaining system.* *The Committee would point out, however, that* ***conciliation and arbitration procedures*** *are not necessarily incompatible with the requirements of the Convention. They must, however, be designed to facilitate bargaining between the two sides. This in turn requires that it must be for the parties to decide whether or not they wish to refer any matters in dispute to binding arbitration. The discretionary powers assumed by the Government to introduce legislation which refers disputes for binding arbitration against the wishes of one or both of the parties is not consistent with this principle.* *In the light of all of these considerations the Committee* ***requests the Government not to have recourse to legislative intervention in relation to industrial disputes involving public servants who are not acting in their capacity as agents of the public authority, workers in the oil industry, and in other non-essential sectors.*** **1992**: *The Committee notes the information contained in the Government's report and the comments of the Norwegian Trade Union Federation of Oil Workers (OFS) of 10 May 1991. It also notes the conclusions of the Committee on Freedom of Association in Case*

			No. 1576 (279th Report of the Committee on Freedom of Association, adopted by the Governing Body at its 251st Session, November 1991) concerning the restrictions imposed on the right to strike by legislative means in the oil industry through the imposition of compulsory arbitration. ***While noting the Government's statement in its report that the interference by the authorities in the right to strike in order to restrict or prohibit it is compatible with the Convention in the event that the strike is liable to cause considerable economic losses with a harmful effect on society or third parties and that the oil industry should, in this respect, be considered to be an essential service,*** *the Committee recalls that the principle whereby* ***the right to strike may be limited or prohibited in essential services would become meaningless if the legislation defined essential services too broadly.*** *The Committee has already indicated that the prohibition upon the right to strike should be confined to services whose interruption would endanger the life, personal safety or health of the whole or part of the population, or in a situation of acute national crisis. Moreover, the Committee has considered it compatible with the Convention to* ***maintain a minimum service,*** *provided that it is restricted to operations that are strictly necessary to avoid endangering the life, personal safety or health of the whole or part of the population and provided that workers' organisations are, if they wish,* ***able to participate in defining the minimum service along with the employers and public authorities****.* *The Committee of Experts, in the same way as the Committee on Freedom of Association, expresses doubts as to the compelling need to have had recourse to* ***compulsory arbitration*** *in the dispute in the oil industry and encourages the parties concerned, with the participation of the Government if necessary, to reach an agreement on the minimum services that would be strictly necessary in order not to compromise the life, personal safety or health of the whole or part of the population during a labour dispute in the oil sector. As did the Committee on Freedom of Association, the Committee of Experts recommends that all the parties to the dispute give priority to collective bargaining as the means of determining employment conditions.* *Noting that, according to the information contained in the report of the Committee on Freedom of Association, the Government plans to examine possible modifications to the existing system, the Committee trusts that the Government will endeavour to take the necessary measures to bring national law and practice into conformity with the principles*

			of the Convention and requests it to indicate any progress achieved in this respect in its next report. ***1995**: In its previous observation, the Committee's comments had concerned the need to remove the restrictions imposed on the right to strike by legislative means in the oil industry through the imposition of compulsory arbitration. The Committee had noted the Government's statement that the tripartite Labour Law Council, an advisory agency to the authorities in matters of labour legislation, was preparing a proposal for a new labour disputes act which would provide for a dispute settlement system along the lines suggested by the Committee.* *The Government now indicates that the Labour Law Council will need more time to complete its work since the preparation of a report proposing a new labour disputes act was a complicated task as any basic changes needed to have the full support of the major workers' and employers' organizations. According to the Government, the Council had looked into various bargaining systems functioning in different European countries, and was trying to find a system which was consistent with national concerns and traditions. Based on the report of the Council and the comments received from the organizations concerned, the Government would then prepare and put forward a bill proposing a new labour disputes act.* *The Committee trusts that the bill will take account of its previous comments concerning the restrictions or the prohibitions on the right to strike which are compatible with the principles of freedom of association, and encouraging the maintenance of a negotiated minimum service defined by workers and employers in the event of a labour dispute in the oil sector. It requests the Government to keep it informed of any developments in this respect which would bring its legislation into conformity with the Convention.* **2008:** *The Committee recalls that over the years, it has referred to the need to limit the possibility of imposing compulsory arbitration to the essential services in the strict sense of the term or to public servants exercising authority in the name of the State.* ***The Committee takes note of the Government's observations** that governmental intervention in strikes can only take place if the Norwegian Parliament (Stortinget) adopts a law and that this does not happen with regard to any collective labour dispute at the discretion of the public authorities, but rather after a careful evaluation of the impact of a strike on the life, health or personal safety of the population. The health surveillance*

			authorities monitor the situation closely and only when it is reported from them that life and health is endangered, is a proposal of compulsory arbitration is put before Parliament. ***An exception from this has been the oil conflict which would cause a full stop in all Norwegian oil production which would have a devastating impact on volatile and already extremely high oil prices. As for the strike in the elevator service which ended through compulsory arbitration in 2006, the Government indicates that it had lasted for nearly six months and had given rise to safety concerns due to the lack of repairs and maintenance. The Government adds that in 2006, acts imposing compulsory arbitration have been adopted in conflicts in the insurance and financial services sector (Acts Nos 10 and 18 of 16 June 2006). Another intervention took place in the public sector involving the police, Food Safety Authority and Institute of Public Health.*** *With regard to the issue of minimum services, the Government indicates that responsibility for minimum services agreements first of all rests with the conflicting parties which are responsible for the consequences of the industrial action. According to many basic agreements, industrial parties before a conflict breaks out enter into the agreements which are necessary to see to it that the conflict is handled and develops in a secure manner. The Government considers it to be the responsibility of the parties to handle these matters and this is done in most cases.* *The Committee takes note of the conclusions and recommendations reached by the Committee on Freedom of Association in Case No. 2545 concerning the imposition of compulsory arbitration in 2006 in the insurance and financial services sectors which are not essential in the strict sense of the term (349th Report, paragraphs 1111–1156). It notes that the Committee on Freedom of Association requested the Government to avoid, in the future, enacting legislation which has the effect of bringing to an end all industrial action in a dispute, especially where it relates to a sector that cannot be considered essential in the strict sense of the term and take into account the possibility of a negotiated minimum service.* *The Committee invites the Government* ***once again*** *to ensure that compulsory arbitration through legislative intervention is imposed only in cases where the life, personal safety or health of the whole or part of the population is threatened or where the strike concerns public servants exercising authority in the name of the State, and requests the Government to continue to provide information on any decisions by Parliament imposing compulsory arbitration.*

141. Poland	1990, 1991, 2000, 2002, 2004, 2006, 2008, 2010, 2012, 2015, 2018, 2022 (Observations) 2018, 2022 (Direct requests)	Public servants - compensation for strike restrictions - political strikes	**1990**: *With regard to the other matters on which the Round Table committee voiced the need for change and which have been the subject of the comments of the Committee of Experts* ***for several years****, namely the* ***denial of trade union rights to officials in prison establishments and restrictions on the right to strike****, the Government indicates that amendments to the relevant provisions of the Trade Union Act of 1982 will be introduced, since the principle was recognised during the Round Table. The Government indicates that work has started on bringing the legislation into conformity with the provisions of Convention No. 87 and that the ILO will be kept informed of the outcome.* *In this respect, the Committee notes that, according to the Government's most recent report, provisional occupational organisations for prison staff and members of the militia have been created, namely the Initiative Group of the Independent Self-Governing Trade Union of Officials in prison establishments and the Independent Self-Governing Trade Union of Militia Personnel. It adds that steps aimed at the amendment of their legal status will enable these officials to organise in trade unions.* *The Committee takes due note of this information and in particular notes with satisfaction that Act No. 179 of 29 May 1989 annuls all convictions imposed in respect of strikes or other protest actions committed after 31 August 1980. It hopes that in the near future it will be possible to* ***amend the legislation*** *along the lines of the recommendations of the Round Table committee and the comments of the Committee of Experts* ***in order to recognise the trade union rights of officials in prison establishments and to make the provisions concerning strikes more flexible. It requests the Government to supply detailed information in this connection.*** **2000**: *With reference to its previous comments concerning the right to organize of public employees, the Committee notes the adoption in 1998 of a new law on civil service, which replaces the previous legislation on this subject. ... The Committee notes however that the Civil Service corps now comprises two categories of employees: "Civil Service employees ... employed on the basis of an employment contract" (article 3.1) and "Civil servants ... employed by virtue of nomination" (article 3.2), with different rights: ....* *(ii) article 69(3) provides that "Civil Service corps members are not allowed to participate in strikes or actions of protest, which will interfere with the normal functioning of the office". The Committee recalls that the* ***prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State*** *and that, in borderline cases, one solution might be to provide for the maintaining by a*

			defined and limited category of staff of a ***negotiated minimum service*** *when a total and prolonged stoppage might result in serious consequences for the public;* *[…] The Committee requests the Government to amend these provisions with a view to bringing the legislation into full conformity with the Convention, and to provide information in its next report on progress in this respect.* **2002**: *… (b) The Committee notes the Government's explanations regarding the restrictions on the right to strike (article 69(3)). The Committee recalls that, when the legislation deprives public servants who exercise authority in the name of the State or workers in essential services of the right to strike, such workers lose an essential means of defending their interests and thus* ***should be afforded appropriate guarantees to compensate for this restriction.*** *The Committee requests the Government to provide in its next report information on the compensatory procedures available to those employees whose right to strike, under the Convention, may be restricted or prohibited.* **2008**: *Right of organizations freely to organize their activities and to formulate their programmes.* ***The Committee recalls that it had previously requested the Government to amend section 49(3)*** *of the Law on Civil Service (2006) so as to ensure that prohibition of the right to strike is limited to public servants exercising authority in the name of the State. The Committee notes that* ***the Government indicates that the draft Act does not propose to amend section 49(3) of the abovementioned Law.*** *According to the Government, the civil service concerns government administration exclusively, thus it should be assumed that civil service members participate in exercising authority on behalf of the State. Civil service members may, however, undertake protest actions which do not disturb normal functioning of offices. The Committee notes that the Government indicates that all employees employed in the state authorities, government and self-government administrations, courts and prosecutor's office are not entitled to the right to strike. The Committee requests the Government to specify categories of employees whose right to strike is restricted under section 49(3) of the Law on Civil Service.* **2012**: *The Committee recalls that in its previous comments, it requested the Government to specify categories of employees whose right to strike was restricted and to provide information on the practical application of the right to strike by such employees. The Committee notes that, according to the Government, section 78(3) of the Act on the civil*

			*service **forbids public servants to participate in a strike or industrial action interfering with the normal functioning of the office.** In this respect, the Committee recalls that public servants who do not exercise authority on behalf of the State must be able to exercise the right to strike. The Committee trusts that in the context of the revision of the Act on the civil service, to which the Government refers in the previous paragraph, the necessary measures will be taken to acknowledge the abovementioned principle.* **2022**: *The Committee had also requested the Government to amend section 78(3) of the same Act, which forbids civil servants to participate in strikes or actions of protest interfering with the normal functioning of the office, and trusted that the Government would consider establishing a procedure for determining which public servants enumerated in section 19(3) of the Law on Collective Labour Disputes and in section 2 of the Act on the Civil Service were exercising authority in the name of the State and for whom the right to strike could therefore be restricted. Recalling that it had previously welcomed the Government's indication that a draft law dealing with the right of public employees to strike was submitted to the Council of Ministers, the Committee notes with regret the Government's indication that at present, there are no legislative initiatives to amend section 78(3) of the Act on Civil Service. Recalling that **for a number of years it has been commenting on the discrepancies between section 78(3) and (6) of the Act on Civil Service Act and the Convention**, the Committee urges the Government to take all necessary steps to expedite the process of amendment of this Act, so as to ensure that civil servants may exercise their trade union functions at all levels and that the right to strike is granted to all public servants, with the possible exception of public servants exercising authority in the name of the State. It requests the Government to provide information on all progress made in this regard.* **2018**: *The Committee notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 3111 drawing the legislative aspects of the case to the attention of the Committee of Experts (see Report No. 378, June 2016, paragraphs 647–718). The Committee notes, in particular, sections 1 and 17 of the Collective Labour Disputes Act, according to which, a collective dispute between employees and an employer or employers may only relate to working conditions, wages, social benefits, union rights and freedoms of employees or other groups of persons who enjoy the right to organize, and that a strike is a collective labour stoppage by employees*

			for the purpose of settling a dispute concerning the above-mentioned matters. The Committee considers that the occupational and economic interests which workers defend through the exercise of the right to strike do not only concern better working conditions or collective claims of an occupational nature, but also the ***seeking of solutions to economic and social policy questions and problems facing the undertaking which are of direct concern to the workers****. The Committee requests the Government to take the necessary measures in order to ensure that workers' organizations are able to express, if necessary, through protest actions, more broadly, their views as regards economic and social matters affecting their members' interests.* **2022**: *The Committee had* ***previously requested*** *the Government to ensure that workers'* ***organizations were able to express, if necessary, through protest actions, their views more broadly as regards economic and social matters affecting their members' interests****. It referred, in this respect, to sections 1 and 17 of the Law on Collective Labour Disputes, according to which, a collective dispute between employees and an employer or employers may only relate to working conditions, wages, social benefits, union rights and freedoms of employees or other groups of persons who enjoy the right to organize, and that a strike is a collective labour stoppage by employees for the purpose of settling a dispute concerning the above-mentioned matters. The Committee notes the Government's indication that the draft Law on Collective Labour Disputes, which entered into the list of legislative and programme works of the Council of Ministers on 1 July 2022, broadens the definition of collective disputes to cover all collective matters in which trade unions represent individuals performing paid work in relation to professional, economic or social interests or rights related to the performance of work. The Committee recalls that occupational and economic interests which workers defend through the exercise of the right to strike, or the conduct of protest actions more broadly, do not only concern better working conditions or collective claims of an occupational nature. The Committee notes that the NSZZ "Solidarność" alleges several shortcomings in the draft Law, in particular, as concerns the narrow scope of the subject matter of an industrial dispute and the exercise of the right to strike of workers in large companies. The Committee therefore requests the Government to review the draft law on Collective Labour Disputes in consultation with the social partners with a view to ensuring that workers' organizations are able to exercise the right to strike and express through protest actions more broadly, their views as regards economic and social matters affecting their members' interests.*

142. Portugal	1993, 1995, 1996, 1997, 1998, 2010, 2012, 2013, 2015 (Direct requests)	Minimum services - public servants - suspension of strikes - requisition of striking workers	**1993**: *The Committee notes the adoption of Act No. 30/92 of 20 October, to amend Act No. 65/77 respecting the right to strike. In this connection, the Committee notes that* ***minimum services may be determined by collective agreement or by agreement with the representatives of the workers****. Nevertheless, the Committee notes that in cases in which the parties do not reach an agreement, the determination of these services is made by the Minister of Employment and Social Security together with the Minister competent for the sector in question. The Committee considers that it would be preferable for minimum services, in those public services which are not considered to be essential in the strict sense of the term, to be determined by an independent body in the event of disagreement between the parties. The Committee therefore requests the Government to supply information in future reports on the effect given in practice to this new provision of the law.* **1997**: *The Committee requests the Government to send it a copy of Decision No. 868/96 taken by the Constitutional Court on 4 July 1996, which appears to have declared as unconstitutional, with binding force, certain paragraphs of section 8 of Act No. 65/77 of 26 August 1977 (amended by Act No. 30/92 of 22 October 1992) concerning the power of the authorities to define by decree minimum services.* *Furthermore, the Committee notes the provisions of section 385 of the Criminal Code, as amended by Legislative Decree No. 48/95 issued in March 1995, which provide that a* ***public servant*** *who leaves his post illegally with the intention of harming or interrupting a public service is* ***liable to a prison sentence of up to one year's duration or a prison sentence of 120 days together with a fine****. In this regard, the Committee recalls that it accepts that the right to strike may be subject to restrictions, or even prohibition, in the public or essential services. The Committee considers, however, that the principle whereby the right to strike may be limited or even prohibited in the public or essential services would lose all meaning, if legislation defined the public or essential services in too broad a manner. In the view of the Committee, the prohibition of the right to strike should be limited to public servants exercising authority in the name of the State or to strikes in essential services in the strict sense of the term, i.e. in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see paragraphs 158 and 159 of the General Survey on the freedom of association and collective bargaining, 1994). Consequently, the Committee requests the Government to amend the text of section 385 of the Criminal Code so as to ensure that penalties may only*

			be imposed for strikes in cases where the prohibitions in question comply with the principles of freedom of association. **2010**: *The Committee notes the adoption of several legislative texts, particularly Act No. 7/2009 of 12 February 2009 revising the Labour Code. The Committee asks the Government to specify whether the conciliation and mediation procedures suspend exercise of the right to strike until completion of the procedures. If so, the Government is requested to indicate the maximum number of days that may elapse between the issuing of the strike notice and the end of the conciliation and mediation procedures.* **2013**: *[…] The Committee notes the 2013 observations from the General Union of Workers (UGT) and the International Trade Union Confederation (ITUC) dealing mainly with the* ***determination of minimum services in the event of a strike in public utilities*** *and also the Government's reply concerning this matter. […]* *In its previous comments the Committee asked the Government, further to the adoption of Act No. 7/2009 of 12 February 2009 revising the Labour Code, to specify whether* ***conciliation and mediation procedures suspend exercise of the right to strike until completion of the procedures****. The Committee notes the Government's statement that conciliation and mediation do not suspend exercise of the right to strike.* **2015**: *The Committee takes note that, in response to the allegations by the ITUC that the Government may in grave situations issue a ministerial order on a wide range of sectors to* ***requisition striking workers****, the Government states that requisition is only possible if minimum services indispensable for the satisfaction of vital social needs are not complied with during a strike, an exceptional measure that is rarely applied. The Committee requests the Government to provide further information on the application in practice of this possibility, including examples as to when it has been resorted to.* **2018**: *The Committee had previously noted that in grave situations, when minimum services indispensable for the satisfaction of vital social needs are not complied with, the* ***Government may issue a ministerial order to requisition striking workers****. The Committee had requested the Government to provide information on the application in practice of this possibility. The Committee takes note of the Government's indication that this possibility was used in respect of a strike in 2014 in the aviation sector. Furthermore,*

			the Committee notes the observation of the CIP that civil requisition, under article 1 of Decree-Law No. 637/74, has an exceptional character and is an instrument of last resort and that, since 1970, it has only been enacted three times, in 1977, 1997 and 2014.
143. Republic of Moldova	1999, 2000, 2001, 2002, 2004, 2014, 2017, 2021 (Direct requests)	political strikes - suspension of strikes - compulsory arbitration - minimum services - essential services - penal sanctions	**1999**: *The Committee wishes to draw the Government's attention to certain aspects concerning the right to strike, set out in the Act on the resolution of collective labour disputes, N.1298-XII of 24 February 1993:* *1. Section 14(1) and (2) provides that a strike may be declared only to defend workers' occupational interests of an economic and social nature and must not be initiated for political ends. The Committee has always considered that strikes of a purely political nature do not fall within the scope of the field protected by the Convention but recalls that* ***trade unions responsible for defending workers' socio-economic and occupational interests should be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends*** *(see General Survey on freedom of association and collective bargaining, 1994, paragraph 165). It requests the Government to supply it with information on the application in practice of the prohibition set out in section 14(2).* *2. Section 20(1) provides that, at the request of the management of an enterprise, the* ***Supreme Court may suspend for 90 days the beginning or continuation of the strike if the latter may cause prejudice to the national economy****. The Committee wishes to recall that suspension of the right to strike constitutes an important restriction on an essential means for workers in the defence of their interests and can be justified only in the event of acute national crisis and for a limited period.* *3. Sections 24-27 provide for* ***compulsory arbitration on the sole initiative of the Ministry of Labour and Social Welfare if the duration of a strike exceeds 15 days and if it may cause harm to the national economy****. The Committee considers that this criterion grants wide powers to the minister to impose compulsory arbitration.* *4. Section 28(d)* ***prohibits strikes in several sectors, particularly in public urban and rail transport, public aviation, communications and the energy sector****. The Committee is of the view that restrictions or prohibitions on the right to strike should be restricted to essential services in the strict sense of the term, namely services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see General Survey, op. cit., paragraph 159). The Committee considers that the prohibition of strikes in the public urban and rail transport sectors and civil aviation is not compatible with the principles of freedom of association and should be repealed.*

			*Furthermore, with regard to the communication and energy sectors, the Committee recalls that **if strikes are prohibited in these sectors, legislation should provide a compensatory mechanism for the settlement of labour disputes**. In view of the absence of a compensatory mechanism for settling disputes in section 28, the Committee requests the Government to indicate in its next report the measures taken or envisaged to allow workers in these sectors, deprived of an essential means in the defence of their economic and occupational interests, to have their collective claims heard and to bring the legislative provisions into conformity with the principle set out above.* *5. Sections 21(3) and 23(5) provide for the **material responsibility of the organizers of a strike initiated or continued illegally**. In the Committee's view, this responsibility may prove costly and disproportionate if the acts involved constitute recourse to a strike for the defence of workers' interests pursuant to the principles of freedom of association.* *6. The Committee also requests the Government to indicate whether a similar provision to section 190(3) of the Criminal Code of the former USSR, which contains restrictions on the rights of workers to take part in collective action aimed at disrupting transport or public and social establishments, accompanied by terms of imprisonment of up to three years is still in force and, if so, to envisage the repeal of this provision.* *The Committee requests the Government to inform it of the measures envisaged to amend section 238 of the Labour Code and sections 14(2), 20(1), 21(3), 23(5), 24 and 28(d) of the Act on the settlement of collective labour disputes, N.1298-XII, in order to bring its legislation into greater conformity with the Convention and requests it to supply information in its next report on the practical application of the Convention. It also requests the Government to send it a copy of the Bills concerning trade unions and employers' organizations which it mentions in its first report, as well as a copy of the Penal Code currently in force.* **2004** (direct request; similar in substance: **2006** direct request and **2008** observation): *The Committee notes the Government's indication that the procedure of the organization of a strike is now regulated by the Labour Code of 2003 and that following the enactment of the Code, the law on settlement of collective labour disputes was repealed.* *The Committee notes that according to section 363(3) of the Labour Code, strikers are obliged "to provide uninterrupted functioning of the equipment and installations which, if stopped, could endanger the life and health of people or cause irreparable damage to the enterprise". The Committee recalls in this respect that the authorities could establish a*

			system of minimum service in services which are of public utility in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties*, namely the users or consumers who suffer the economic effects of collective disputes. However, such a service should meet at least two requirements. Firstly, and this aspect is paramount, it must genuinely and exclusively be a minimum service, that is, one which is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service while maintaining the effectiveness of the pressure brought to bear. Secondly, since this system restricts one of the essential means of pressure available to workers to defend their economic and social interests, their organizations should be able, if they so wish, to participate in defining such a service, along with employers and public authorities. It would be highly desirable for negotiations on the definition and organization of the minimum service not to be held during a labour dispute, so that all parties can examine the matter with the necessary objectivity and detachment. The parties might also envisage the establishment of a joint or independent body responsible for examining rapidly and without formalities the difficulties raised by the definition and application of such a minimum service and empowered to issue enforceable decisions (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 160-161). The Committee requests the Government to indicate the manner in which the workers under section 363(3) are determined.* *The Committee further notes that according to section 369 of the Labour Code,* ***workers employed in communication services, employees of continuously working enterprises and workers of enterprises manufacturing products for the defensive needs of the country are prohibited from participating in strike actions****. The Committee recalls that, as an exception to the general principle of the right to strike, the* ***essential services*** *in which this principle may be entirely or partly waived should be defined restrictively: the Committee therefore considers that essential services are only those the interruption of which would endanger the life, personal safety or health of the whole or a part of the population (General Survey, op. cit., paragraph 159). The Committee considers that, while telecommunication services could be considered essential, other workers employed in communication services should be able to enjoy the right to strike. The Committee requests the Government to clarify the workers concerned by the prohibition in section 369(2)(c) and (h) and to specify the "continuously working enterprises" in which the right to strike is prohibited.*

			The Committee notes the Government's indication that the Criminal Code of 1961 was repealed and replaced with the Criminal Code of 2002. The Government further indicates that the new Code provides for ***criminal responsibility for the organization of an unlawful strike (section 357) as well as for the organization of or the participation in group-actions and breaking public order (section 358)****. The Committee notes that according to section 357(1), the unlawful strike is punishable by a fine in the amount of 500 conventional units, or by unpaid labour for public benefit for the period from 100 to 240 hours, or by imprisonment for the period of up to three years. According to section 358(1), the organization of or active participation in group actions, breaking violently public order, related to […] the obstruction of the normal functioning of the transport, enterprises, institutions and organizations shall be punished by the imposition of a fine in the amount of 500 conventional units, or by imprisonment for a period up to three years. The Committee recalls that restrictions on the right to strike can only be imposed in essential services and with respect to public servants exercising authority in the name of the State and that sanctions should be possible only where the prohibitions in question are in conformity with the provisions of the Convention. Furthermore, since the application of disproportionate penal sanctions does not favour the developments of harmonious and stable industrial relations, if measures of imprisonment are to be imposed at all, they should be justified by the seriousness of the offences committed (see General Survey, op. cit., paragraph 177). The Committee requests the Government to indicate the measures taken or envisaged to amend section 358 in order to ensure that penal sanctions for strike action may only be imposed where the prohibition of the strike is in conformity with the Convention and that, even in these cases, the sanctions imposed are not disproportionate to the seriousness of the violation.* **2017**: *In its previous direct request, the Committee had requested the Government to indicate concrete steps taken to adopt legislative provisions expressly providing for the participation of the relevant trade unions and employers' organizations in determining the minimum services to be ensured in the event of a strike, and to transmit a copy of Decision No. 656 of 11 June 2004 providing for the list of categories of workers who are prohibited from striking pursuant to section 369 of the Labour Code. The Committee notes the Government's indication that it is willing to make more flexible rules governing the right to strike by reducing the categories of workers who cannot take part in strikes and by providing for minimum services in the most important sectors for the State and society,*

			and that these rules shall be decided upon jointly with trade unions and employers' organizations. In this regard, the Committee notes the list of services where strikes are prohibited pursuant to Decision No. 656 communicated with the Government's report. It notes, in particular, that services, such as air freight and communication system enterprises are included in the list which are neither essential services in the strict sense of the term nor do they involve public servants exercising authority in the name of the State, where the right to strike can be prohibited. The Committee once again requests the Government to take the necessary steps, in consultation with the social partners, to adopt legislative provisions expressly providing for the participation of the relevant trade unions and employers' organizations in determining the minimum services to be ensured in the event of a strike, and to amend the list of services where strikes are prohibited. The Committee requests the Government to provide information on any progress made in this regard. **2021**: *The Committee had previously requested the Government to provide information on any progress made towards adopting legislative provisions expressly providing for the participation of the relevant trade unions and employers' organizations in determining the minimum services to be ensured in the event of a strike, as well as towards amending the list of services where strikes are prohibited pursuant to section 369 of the Labour Code contained in Decision No. 656 of 11 June 2004. The Committee recalled in this respect that among services where strikes are prohibited, services such as air freight and communication system enterprises were neither essential services in the strict sense of the term nor did they involve public servants exercising authority in the name of the State, where the right to strike could be prohibited.* ***The Committee regrets that the Government does not address these issues in its report.*** *The Committee notes from the CNSM observations that on 7 November 2017, the Constitutional Court delivered a judgment on the constitutionality of section 369 paragraphs (2), (3) and (4) of the Labour Code, section 21 paragraphs (2) and (3) of the Code on Railway Transportation and Government Decision no. 656 of 11 June 2004 on the approval of the Nomenclature of Units, Sectors and Services whose employees cannot take part in strike. The CNMS indicates that the Court considered that within public authorities, the right to strike can be restricted only for some categories of workers, namely the persons exercising authority in the name of the State and those whose functional competencies are to ensure public order, law and state security; thus the rights to strike of other categories of public employees*

			should not be limited. The Committee understands that in order to implement the 2017 judgment of the Constitutional Court, the Government adopted Decision No. 389 on 25 April 2018, which amended Decision No. 656. The Committee requests the Government to transmit a copy of Decision 389. It further once again requests the Government to indicate all measures taken in consultation with the social partners to adopt legislative provisions expressly providing for the participation of the relevant trade unions and employers' organizations in determining the minimum services to be ensured in the event of a strike.
144. Romania	1992, 1996, 1998, 2000, 2002, 2004, 2006, 2007, 2008, 2010, 2012, 2015, 2018 (Observations) 1992, 1993, 1995, 2000, 2006, 2008, 2010, 2012, 2015, 2018, 2019, 2023 (Direct requests)	Voting requirements for strikes - compulsory arbitration - financial liability of strike organizers - essential services - suspension of a strike - penalties - minimum services - public service - sympathy strikes - payment of wages to public servants on strike	**1992**: *The Committee takes note of the texts of the three basic Acts respecting labour adopted by the Romanian Parliament: […] Act No. 15 of 11 February 1991 on the settlement of collective labour disputes […] . […]* *The Committee notes with interest that the new texts referred to above, in conjunction with the repeal of several legislative provisions on which the Committee commented earlier, change the general orientation of the industrial relations system, establish trade union pluralism and the independence of the trade union movement, and recognise the principle of the workers' right to strike.* *However, the Committee wishes to draw the Government's attention in a direct request to certain important aspects of the legislation including: […]* *- the **voting requirements for, and the objectives of, strikes**;* *- **binding arbitration**;* *- **financial liability of the organisers of a strike**;* *- **restrictions and prohibitions of the right to strike, essential services and compensatory bargaining mechanisms**; […]* **1996**: *The Committee recalls once again that its previous comments referred to the need to amend or repeal the following provisions of Acts Nos. 15 and 54 concerning, respectively, the settlement of collective labour disputes and trade unions, in order to bring the legislation into full conformity with the Convention:* *- sections 38 and 43 of Act No. 15 establishing a **compulsory arbitration** procedure which may be set in motion at the sole initiative of the Minister of Labour when a strike has lasted for more than 20 days and its continuation "is likely to affect the interests of the general economy";* *- section 30 of Act No. 15 which provides that the Supreme Court of Justice may **suspend the start or continuation of a strike for a period of 90 days** if it deems that major interests of the economy may be affected;*

			*- section 47 of Act No. 15 which provides for **heavy penalties** (up to six months' imprisonment) if a strike is called in disregard of section 45(4) and others of the Act;* *- section 13 of Act No. 15 which prohibits persons who have declared a strike without respecting the terms laid down by the Act from being elected as trade union delegates;* *- sections 32(3) and 36(3) of Act No. 15 which establish the **financial liability of strike organizers** if the conditions for starting or pursuing the strike have not been met;... .* **2000**: *The Committee notes with satisfaction that the new legislation introduces provisions which respond to several of the concerns expressed in its previous comments on the previous legislation, and particularly:* *- the **compulsory arbitration** procedure which could, in certain cases be set in motion at the sole initiative of the Minister of Labour (the procedure is modified by section 41(2) and the related provisions of the new Act, under which mediation and arbitration in disputes of interest are henceforth compulsory only where the parties so decide by consensus);* *- the power conferred upon the Supreme Court to **suspend, under certain circumstances, the start or continuation of a strike** for a period of 90 days (this provision is repealed by section 91 of Act No. 168);* *- the **heavy penalties, financial responsibility and ineligibility for trade union office** to which persons are liable who have called a strike without observing certain conditions, which are in themselves contrary to the Convention, but which were set out in the law (these provisions are repealed by section 91 of Act No. 168);* *[...]* *(i) Section 55 of Act No. 168 provides that the management of a production unit may demand the **suspension of a strike, for a maximum period of 30 days, if it endangers the life or health of individuals**, and that an irrevocable decision may be taken in this respect by the Court of Appeal under the terms of section 56. The Committee requests the Government to specify the criteria relating to "the life or health of individuals" by providing, where possible, practical examples of court decisions applying this provision.* *(ii) Section 62(1) of Act No. 168 provides that the management of a production unit may submit a dispute to an arbitration commission where a strike has lasted for 20 days without agreement and its continuation is such as to affect interests of a humanitarian nature. Emphasizing that it should not be up to the management of the production units to evaluate whether the continuation of a strike is such as to affect interests of a*

			humanitarian nature, the Committee requests the Government to specify the concept "interests of a humanitarian nature" by providing, where possible, examples of the application of this provision in practice. **2010***: […] In this regard, the Committee hopes that in the context of the revision of the abovementioned legislation, due account will be taken of the issues raised in its previous comments which read as follow:* *– the need to amend section 62 of Act No. 168/1999 on the settlement of labour disputes (according to which the management of a production unit may submit a dispute to an arbitration commission in the event that a strike has lasted for 20 days without any agreement being reached between the parties and its continuation would affect humanitarian interests) so that* ***compulsory arbitration*** *may only be imposed in essential services in the strict sense of the term and for public servants exercising authority in the name of the State;* *– the need for detailed information on the application of sections 55–56 of Act No. 168/1999 on the settlement of labour disputes (according to which the* ***management of a production unit may demand the suspension of a strike,*** *for a maximum period of 30 days, if it endangers the life or health of individuals, and an irrevocable decision may be taken in this respect by the Court of Appeal) and sections 58–60 of the same law (under which the management can request the court to pronounce itself on the illegality of a strike and its ending by issuing an urgent ruling within three days), and to provide copies of decisions handed down under these provisions;* *– the need to amend section 66(1) of Act No. 168/1999 on the Settlement of Labour Disputes – which requires that in case of strike in units of public transport one third of the unit's normal activity must be ensured – so as to allow for the* ***minimum services in this sector to be negotiated by the social partners concerned*** *rather than set by the legislation; in the absence of agreement between the parties, minimum services should be determined by an independent body.* **2012**: *The Committee notes with* satisfaction *that the following issues raised previously have been resolved through the adoption of the Social Dialogue Act: […] and compulsory arbitration only at the request of both parties (sections 179 and 180).*

			2015: *With respect to the denial of the right to organize to certain categories of **public officials**, the Committee notes the information provided by the Government that: (i) section 4 of the Social Dialogue Act excludes persons elected or appointed to positions such as president, parliamentarian, mayor, prime minister, minister, president of the Supreme Court, etc.; and (ii) judges are excluded under section 4 but have the right to join professional associations as provided by the European Charter on the statute for judges.* **2000***: The Committee notes that, under section 45(3) of that same Act, **sympathy strikes** cannot last more than one day. Recalling in this respect that workers should be able freely to take such action provided the initial strike they are supporting is itself lawful, the Committee requests the Government to provide it in its next reports with information on the application of this provision in practice.* **2008***: The Committee also notes that Act No. 864/2006 amended section 28 of Act No. 188/1999 so as to **prohibit the payment of wages to public servants on strike.** The Committee considers that this issue should not be excluded from the scope of negotiations between the parties concerned. It therefore requests the Government to indicate any measures taken or contemplated to lift the provision of section 28(2) of Act No. 188/1999 as amended by Act No. 864/2006.* **2019 and 2022***: In its previous comments, the Committee had requested the Government to take measures to amend section 205 of the Social Dialogue Act, which establishes minimum services by law, to allow for minimum services in the relevant sectors to be negotiated by the social partners concerned, and, in the absence of agreement, to be determined by an independent body. **The Committee notes that no progress has been achieved in this regard.** The Committee expects that the Government will take the necessary measures to amend section 205 of the Social Dialogue Act to allow for minimum services in the relevant sectors to be negotiated by the social partners concerned, and, in the absence of agreement, to be determined by an independent body. With respect to the issue of wage payments to public servants on strike, **the Committee notes the Government's indication** that provisions of section 30 of the Act No. 188/1999 are corroborated by provisions of sections 195 and 207 of the SDA (maintenance of health insurance right during the suspension), and **that salary deductions during the strike may be imposed without infringing the principles related to the exercise of trade union freedom.** The Government adds that it has no data on cases of suspension of service/individual employment contracts and non-payment of wage rights during a strike.*

			The Committee recalls that the concern raised relates to the payment of wages by the public employer, and that in imposing the suspension of such payment for all strikes, the provision restricts the freedom of the public employer and the unions concerned to agree otherwise. The Committee thus invites the Government to amend section 30(2) of Act No. 188/1999 so that the suspension of wages of public servants on strike can be the subject of negotiation between the parties concerned. **2023***: In its previous comment, with respect to the issue of wage payments to public servants on strike, the Committee invited the Government to amend section 30(2) of the now repealed Act No. 188/1999 so that the suspension of wages of public servants on strike can be the subject of negotiation between the parties concerned. The Committee notes the Government's indication that section 416 of the Government Ordinance No. 57/2019 stipulates that civil servants on strike do not receive salary and other benefits during the strike. The Committee also observes that section 160 of the SDA provides for the suspension of the individual employment contract of all employees on strike only at the initiative of the employees concerned. The Committee recalls that the concern raised relates to the payment of wages by the public employer, and that in imposing the suspension of such payment for all strikes, the provision restricts the freedom of the public employer and the unions concerned to agree otherwise. The Committee therefore invites the Government to amend section 416 of the Ordinance to allow suspension of wages during a strike of civil servants to be negotiated among the parties and requests the Government to provide information on the application in practice of section 160 of the SDA, particularly with regard to suspension of wages of public servants on strike*.
145. Russian Federation	2000, 2002, 2004, 2005, 2006, 2007, 2008, 2010, 2012, 2016, 2018, 2022 (Observations) 1991, 1994, 1995, 1996, 1998, 2007, 2010, 2011, 2012 (Direct requests)	Duration of a strike **(implemented in 2012)** - conditions for a strike to be legal - public servants - essential services - minimum services - sanctions - majority and quorum required for calling a strike	**2000**: *Referring to its earlier comments concerning the **obligation to declare the duration of a strike** under section 14(5) of the 1995 Act on procedures for the resolution of collective labour disputes, the Committee had noted the Government's previous indication that workers who did not cease strike action on the day after the notified date on which the strike is to end may be subjected to disciplinary penalties under the Labour Code, including rebukes, reprimands or, as a last resort, dismissal. In its latest report, the Government indicates that, in accordance with sections 18 and 22 of the Act on procedures for the resolution of collective labour disputes, disciplinary punishment due to strike action may only be imposed in the event of non-compliance with a court order. The Committee further notes however that section 17 of the Act establishes that a strike is illegal if it was declared without regard for the time frames, procedures and requirements*

			stipulated by the sections of the Act, including section 14. The Committee considers that forcing the employees and their organizations to specify the length of a strike would restrict the right of workers' organizations to organize their administration and activities and to formulate their programmes. The right to strike is effectively, by definition, a means of applying pressure which the workers and their organizations may use to promote and defend their social and economic interests and achieve satisfaction in their claims. ***The Committee therefore requests the Government to eliminate the obligation to notify the duration of the strike, and asks it to include details in its next report on the measures effectively taken in this connection.*** *Finally, the Committee notes the Government's indication that, in its opinion, the Act on the procedure of the settlement of collective labour disputes sets out a clear-cut definition of the terms and* ***conditions under which strike action is not available****. The Committee considers however that the numerous requirements set out, in particular in sections 14 and 16 of the Act, concerning the declaration of a strike and the course of action during a strike could easily render strikes illegal on the basis of minor procedural flaws. The Committee notes, for example, that the* ***failure to provide a minimum service*** *may result in a strike being declared illegal under the Act, while the* ***determination of the minimum*** *to be provided will be made by the executive body or body of local self-government in cases where the parties have not been able to agree. In cases of disagreement concerning minimum services, however, the Committee considers that it is preferable for such disagreements to be resolved by an independent body. These and other requirements give rise to a rather* ***complex and complicated procedure*** *for the exercise of legal strike action that may place unnecessary obstacles to its exercise in practice. The Committee would therefore request the Government to consider reviewing and simplifying the Act so as to ensure that the requirements for undertaking legal strike action do not effectively hinder the right of workers' organizations to organize their activities. Furthermore, it requests the Government to transmit copies of any recent relevant court judgements concerning the legality of strike action.* **2012**: *[…]* *The Committee recalls that it had previously requested the Government to ensure that workers of postal services, municipal services and railways can exercise the right to strike and, to that effect, amend section 9 of the 1994 Federal Postal Service Act, section 11(1)(10) of the 1998 Federal Municipal Services Act and section 26 of the 2003 Federal*

			Rail Transport Act. Furthermore, noting that the 2004 Law on State Civil Service prohibits civil servants from stopping their duties to solve a labour dispute, it also requested the Government to amend the relevant legislative provisions so as to ensure that public servants who do not exercise authority in the name of the State could exercise the right to strike. ***The Committee notes that the Government reiterates that the right to strike of the following categories of workers is restricted: workers of the federal courier communications and the municipal employees, as well as certain categories of railway workers. The Government considers that the restrictions imposed on the right to strike of certain categories of workers do not contradict international standards. It refers in this respect to Article 8(2) and (1)(c) of the International Covenant on Economic, Social and Cultural Rights and points out that, under these provisions, a State may impose prohibition on the exercise of the right to strike by members of the armed forces, the police, or the administration of the State, as well as other persons, if necessary, in a democratic society in the interests of national security, public order, or for the protection of the rights and freedoms of others. The Government stresses that nothing in this Article shall authorize States parties to Convention No. 87 to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.*** *The Committee once again recalls its basic position that the right to strike is an intrinsic corollary of the right to organize protected by Convention No. 87. It further recalls that, in addition to the armed forces and the police (members of which could be excluded from the application of the Convention), the right to strike may be restricted or prohibited only for public servants exercising authority in the name of the State and in essential services in the strict sense of the term, i.e. services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee considers that railway services and postal services do not constitute essential services. The Committee therefore requests once again the Government to take the necessary measures to amend the abovementioned legislative acts so as to bring its legislation into conformity with the Convention and ensure that workers of the federal courier communications, railway workers, municipal employees, as well as public servants who do not exercise authority in the name of the State, can exercise the right to strike. It requests the Government to indicate in its next report all measures taken in this respect.*

			2016: *The Committee recalls that it had previously requested the Government to ensure that workers of municipal services as well as civil servants who did not exercise authority in the name of the State could exercise the right to strike. In this regard, the Committee notes that the 1998 Federal Municipal Service Act was repealed by Law No. 25-FZ of 2 March 2007 on Municipal Service in the Russian Federation, which contains, in its section 14 1. 14), the prohibition imposed on employees to stop their duties as a means of resolving a labour dispute. The Committee further recalls that a similar prohibition is contained in section 17 (1) 15) of the Law on State Civil Service (2004).* ***The Committee notes the Government's explanation that the prohibition of strikes for civil servants is compensated by the existence of impartial individual service dispute bodies to address unresolved differences between the employer and civil servants.*** *The Committee notes the KTR's indication that section 9 of the Law on State Civil Service divides the duties of the civil service into four categories, that far from all civil servants covered by the Law are "officials exercising authority in the name of the State", and that the Law imposes the prohibition on strikes irrespective of the specific category of the public service. The Committee once again recalls that the right to strike may be restricted or prohibited only for public servants exercising authority in the name of the State. The Committee therefore requests the Government to take the necessary measures to amend section 14 1. 14) of the Law on Municipal Service and section 17 1. 15) of the Law on State Civil Service so as to bring the legislation into conformity with the Convention and to indicate all measures taken in this respect.* **2018**: *The Committee recalls that it had previously requested the Government to ensure that workers of municipal services as well as civil servants who did not exercise authority in the name of the State could exercise the right to strike. The Committee notes the Government's explanation of the system of the civil service in the Russian Federation.* ***The Government refers, in particular, to section 3(1) of the Law on State Civil Servants, which defines State Civil Service as a type of service carried out by citizens at their respective governmental positions aimed at executing the authority of various State bodies. Therefore, the prohibition of strikes in the civil service is necessary due to its specific functions, which should be uninterrupted to guarantee the exercise of the authority of various state bodies. The Government points out that this prohibition affects civil servants irrespective of the specific level and category of their position as all civil servants contribute individually and collectively towards the public aim of the civil***

			service, through which the authority of the State is exercised. Likewise, the legislation prohibits the exercise of the right to strike by municipal civil servants, who exercise authority in the name of municipal bodies*. While taking due note of this information, the Committee recalls the KTR's previous indication that section 9 of the Law on State Civil Service divides the duties of the civil service into four categories and that far from all civil servants covered by the Law are "officials exercising authority in the name of the State". Recalling that the right to strike may be restricted or prohibited only for public servants exercising authority in the name of the State, the Committee invites the Government to review, in consultation with the social partners, various categories of the State and municipal civil service with a view to identifying those that may fall outside of this narrowly interpreted category.* *With regard to its previous request to amend section 26(2) of the Law on Federal Rail Transport (2003) so as to ensure the right to strike of railway workers,* ***the Committee notes that the Government reiterates the prohibition imposed by the legislation on workers in railway services engaged in the public railway sector and cargo.*** *The Committee recalls that railway transport does not constitute an essential service in the strict sense of the term where strikes can be prohibited and that instead, a negotiated minimum service could be established in this public service of fundamental importance. The Committee once again requests the Government to take the necessary measures to amend section 26(2) of the Law on Federal Rail Transport so as to bring it into line with the Convention. It requests the Government to provide information on the measures taken or envisaged in this respect.* **2022**: *The Committee had previously invited the Government to review, in consultation with the social partners, various categories of the State and municipal civil service with a view to identifying those that may fall outside of the narrowly interpreted category of public servants exercising authority in the name of the State****. The Committee notes that the Government reiterates its explanation on the classification of civil service positions in the national legislation set out in section 9 of the Law on State Civil Servants, and indicates that all civil servants covered by that legislation exercise authority in the name of the State.*** *The Committee notes that the KTR reiterates its opinion that far from all civil servants covered by the Law are "officials exercising authority in the name of the State". The Committee questions to what extent "support specialists" (clerical, documentation, IT, accounting, etc. specialists), for example, exercise authority in the name of the State.*

			The Committee recalls that too broad a definition of the concept of civil servant may result in a very wide restriction or even a prohibition of the right to strike for these workers. The Committee welcomes the Government's indication that it is prepared to conduct, where necessary, consultations with social partners regarding possible improvements. The Committee reiterates its request and expects the Government to inform it of the outcome of the review, in consultation with the social partners, of various categories of the State and municipal civil service with a view to identifying those that may fall outside of this narrowly interpreted category and whose right to strike should be guaranteed. *With regard to its previous request to take the necessary measures to amend section 26(2) of the Law on Federal Rail Transport so as to ensure the right to strike of railway workers,* ***the Committee notes the Government's indication that it believes there is no need to amend the legislation on the rail transport, as section 413 of the Labour Code provides that the right to strike may be restricted by federal law. The Government indicates that temporary work stoppages by certain categories of railway workers may pose a threat to the defence of the country and state security, as well as human life and health, and it is therefore reasonable to restrict their right to strike. The Committee reiterates that railway transport does not constitute an essential service in the strict sense of the term where strikes can be prohibited*** *and that instead,* ***a negotiated minimum service could be established in this public service of fundamental importance****.* *The Committee reiterates its previous request and expects the Government to take the necessary measures, in consultation with the social partners, to amend section 26(2) of the Law on Federal Rail Transport so as to bring it into full conformity with the Convention.* *The Committee again requests the Government to provide information on measures taken or envisaged in this respect.*
146. San Marino	1990 (Direct requests)	Legislation on the right to strike	**1990**: *The Committee notes that section 27 of Act No. 7 of 1961 recognises the right to strike and states that its exercise shall be governed by law. The Committee requests the Government to forward any text that may have been issued under this provision of the Act.*
147. Serbia	2002, 2004, 2006, 2008, 2010, 2012, 2015, 2019, 2022 (Direct requests)	Compulsory arbitration - minimum services - impact of participation in a strike on social	**2002**: *The Committee observes that according to section 136 of the Labour Law, if the parties negotiating for a collective contract have not reached agreement within 30 days from the beginning of negotiations, they are* ***obliged to go to arbitration for the settlement of their dispute****. The Committee notes that although this section allows the parties to determine the effect of the arbitral award by mutual consent, it also requires that recourse be had to arbitration with the purpose of settling the dispute at the end of a relatively short period of negotiations. The Committee also notes that section 153 provides that*

		security rights - penal sanctions	*disputes arising during the process of negotiating a collective contract or making amendments thereto shall be settled amicably and that no reference is made to strike action under the Law. The Committee recalls that the right to strike is one of the essential means available to workers' organizations for the formation and protection of their economic and social interests (Articles 3 and 10 of the Convention). The Committee requests that the Government specify the manner in which trade unions are guaranteed the right to strike in the Republic of Serbia and, in particular, to clarify the relationship between the Strike Law of the Federal Republic of Yugoslavia and the Labour Law of the Republic of Serbia in this respect and to provide any other relevant legal texts. It also asks the Government to amend section 136 of the Labour Law so as to allow the parties the freedom to conduct negotiations as long as they so wish, and to decide whether to submit to binding arbitration.* *The Committee notes that sections 9 and 10 of the Law on Strikes of the Federal Republic of Yugoslavia, 1996, provide that the* ***minimum service*** *shall be determined by the employer in a general act after having taken into account the opinion, complaints and suggestions of the trade union. The Committee considers that workers' organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities. The Committee trusts that it would be desirable in case of disagreement to have such disputes settled by a joint or independent body responsible for examining rapidly and without formalities the difficulties raised by the definition and application of minimum service and empowered to issue enforceable decisions (see General Survey on freedom of association and collective bargaining, 1994, paragraph 161). The Committee requests that the Government provide information on the manner in which genuine participation of trade unions in the definition of the minimum service is ensured and to amend its legislation to ensure that in case of disagreement the matter will be determined by an independent body.* *The Committee notes that paragraph 2 of section 14 of the Law on Strikes provides that* ***participation in a strike will lead to a suspension of the rights of employees to wages and social security.*** *The Committee notes that social security rights are independent of the exercise of the right to strike or the suspension of wages. The Committee is of the view that this provision could unduly penalize workers for their participation in a strike. The Committee requests the Government to repeal this provision.*

			2004: *The Committee notes that the ICFTU states with regard to the Republic of Serbia that: […] (3) disputes are subject to* ***compulsory arbitration****; (4) participation in a strike can lead to* ***suspension of social security rights****, which should be independent of the exercise of the right to strike; […] The Committee notes that the Government provides no reply to the ICFTU comments concerning […] the right to strike which had already been raised by the Committee in a previous direct request. The Committee once again requests the Government to specify the manner in which trade unions are guaranteed the right to strike in the Republic of Serbia and to amend section 136 of the Labour Law so as to allow the parties to freely decide whether to submit a dispute to binding arbitration. It also requests the Government to indicate the manner in which genuine participation of trade unions in the* ***definition of minimum service*** *is ensured and to amend its legislation so that this matter may be determined by an independent body in case of disagreement. Furthermore, the Committee once again requests the Government to amend section 14(2) of the Law on Strikes so that participation in a strike will not lead to a suspension of the rights of employees as concerns social security benefits.* **2008**: *The Committee notes that, according to section 167 of the Criminal Code, whoever organizes or leads a strike in a way which is contrary to the law or regulations and thereby endangers human life and health or property to a considerable extent, or if grave consequences result therefrom, shall be* ***punished with imprisonment*** *of up to three years unless other criminal offences prevail. The Committee recalls that, even where the prohibitions of strike action are in conformity with the principles of freedom of association, the existence of heavy sanctions may create more problems than it solves, especially since any criminal activity is already the subject of penal sanctions under the ordinary criminal law. The Committee emphasizes that the application of disproportionate penal sanctions for trade union activities does not favour the development of harmonious and stable industrial relations and that sanctions should not be disproportionate to the seriousness of the violations. In any case, peaceful strikes should not be sanctioned by imprisonment. The Committee requests the Government to indicate in its next report any measures taken or contemplated so as to ensure that any sanctions for strike action in section 167 of the Criminal Code are proportionate to the seriousness of the violations and that, in any case, peaceful strikes are not sanctioned by imprisonment.*

			2022: *The Committee had previously referred to the need to revise section 10 of the Act on Strikes, which provides that, in the case of strikes involving "activities in the general interest", the employer has the power to determine unilaterally the minimum services after having consulted with the union, and that, if such services are not determined within a five-day period prior to a strike, the competent public authority or the local self-government body takes the necessary decisions. The Committee notes the Government's detailed explanation as to why the draft Act that was prepared in consultation with the social partners has not been yet adopted. The Committee also notes the Government's indication that the Ministry of Labour, Employment, Veteran and Social Affairs is in the process of negotiating support of the European Commission, as part of the Instrument for Pre-accession Assistance programme, for the further improvement of the draft law on strikes.* The Committee expects that the legislative amendments prepared in consultation with the social partners will be adopted without further delay and requests the Government to provide information on all progress made in this regard, and to share a copy of the legislation once it is adopted.
148. Slovakia	1998, 2000, 2001 (Observations) 2005, 2006 (Direct requests)	Majority required for calling a strike **(implemented in 2001)** - effect of participation in a strike on social security	**1998**: *The Committee recalls that section 17 of the Act of 1990 respecting collective bargaining, as amended in 1996, requires the* ***vote of half the workers in the enterprise to whom the agreement at enterprise level applies or the vote of half the workers to whom the higher level collective agreement applies to call a strike*** *and emphasizes that the General Survey indicates that, if a member State deems it appropriate to establish in its legislation provisions which require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the required majority is fixed at a reasonable level (see General Survey, op. cit., paragraph 170). The Committee requests the Government to provide information on the measures taken or envisaged to reduce the required majority to hold a strike at least with regard to large bargaining units.* **2006:** *In its previous direct request, the Committee took note of the comments by the Confederation of Trade Unions of the Slovak Republic (CTUSR) dated 2 November 2005 regarding Law No. 461/2003 of the Collection of Laws on Social Insurance and its conformity with the Convention. More concretely, it alleged that participation in a strike is considered as an interruption of work for social insurance purposes which means a loss on employees' claim to a more favourable calculation of their pensions in cases of early retirement.In this respect, the Committee notes the Government's report indicating that Law No. 461/2003 of the Collection of Laws on Social Insurance was amended by Act No.*

			721/2004 that stipulates that the employees' ***participations in a strike shall not suspend the social insurance*** *– sickness insurance, pension insurance and unemployment insurance. The Committee takes note of this information.*
149. Slovenia	1996, 2001, 2002, 2004, 2006 (Direct requests)	Legislation on strikes	**1996**: *The Committee also notes the Government's statement in its report that a new Act on Strikes is under preparation. It requests the Government to provide a copy of the text, to which it refers in its report, in draft form or as already adopted in order to enable it to examine its conformity with the principles of freedom of association.* **2004***: In reply to its previous request, the Committee notes the Government's indication that … it will be necessary to adopt a joint final decision with the social partners concerning future regulation of strikes whereby it would also be possible for the social partners themselves to decide on strike rules. It once again requests the Government to keep it informed of any development in respect of the draft laws on … strikes.* **2006***: In its previous direct request, the Committee noted the Government's indication that … that it would be necessary to adopt a joint final decision with the social partners concerning future regulation of strikes whereby it would also be possible for the social partners themselves to decide on strike rules, and requested the Government to keep it informed of any development in respect of the draft laws on collective bargaining and on strikes. The Committee notes the Government's indication that strikes are still regulated by Strike Act No. 23/91. It further notes the Government's statement that, while in 2004 only one violation of the provisions of the Strike Act was identified by the labour inspectorate, no such violations were identified in 2005. Moreover, in 2005, the inspectorate received only a few notifications of organized strikes. The Committee recalls that in its previous reports, the Government indicated that it would begin drafting new legislation on strikes. The Committee requests the Government to indicate whether the adoption of new legislation regulating strikes is still envisaged.*
150. Spain	1993, 1995, 1996, 1998, 2000, 2015 (Observations) 1990, 1991, 2018, 2022 (Direct requests)	Definition of minimum service	**1990:** *The Committee therefore trusts, like the Committee on Freedom of Association in the context of Case No. 1466, that, in future,* ***workers' and employers' organisations will be able to participate in defining the minimum service*** *to be maintained in the event of a strike. It requests the Government to provide a copy of any Decree adopted for this purpose, indicating the role played by the above organisations in the setting up of such services.*

			2022: *In its **previous comments**, having received diverging observations from the trade union organizations on one hand and employers' organizations on the other, the Committee requested the Government to address, with these organizations, the operation of the machinery for the determination of minimum services and the other issues and concerns raised by these organizations in relation to the exercise of the right to strike. The Committee observes that the Government merely provides a series of court decisions on the matter. The Committee notes that the CEOE and the CEPYME suggest that: (i) the possibility of establishing a new regulation on the exercise of the right to strike, which dates back to 1977, be examined, in order to address new circumstances; (ii) at least the situation of strikes in public services and strategic sectors, in particular the **establishment of minimum services**, be considered, with provision made for the possibility of using other workers in the event of non-performance of these services; and (iii) the use of dialogue and mechanisms for the autonomous settlement of labour disputes, including after a strike has begun, be increased. The Committee lastly notes that the CCOO alleges that the rules on the determination of minimum services continue to be repeatedly violated by the government authorities, and that the CCOO cites, in this regard, 13 recent court rulings that determine, in relation to minimum services, a violation of the right to strike.* *Noting with regret the **absence of a specific reply by the Government to its previous requests**, and observing the frequent recourse to the courts on issues related to the right to strike, the Committee **once again** requests the Government to encourage tripartite social dialogue on the regulation of the right to strike in general, and on the **definition of minimum services in particular**. The Committee also requests the Government to provide its comments on the allegations of the CCOO on the frequent failure by the government authorities to comply with the rules on minimum services.*
151. Sweden	2012, 2022 (Observations) 1993 (Direct requests)	Sanctions	**2012:** *In their previous communication, the LO and the TCO refer to the €342,000 in punitive damages, litigation costs and interest that the Swedish Building Workers' Union (Byggnads) and the Swedish Electricians' Union were forced to pay to Laval's Latvian trustee in bankruptcy. In this regard, the LO and the TCO state that the unions were being held liable for an ex-post facto application of the interpretation given to European Law through the Laval judgment. Despite the fact that the initial consideration by the Swedish courts in December 2004 found that the collective action was lawful under Swedish Law (a decision which cannot be appealed), the Swedish labour court revisited the case in 2009 in the light of the 2007 ECJ judgment and, given that the trade unions now conceded that the action was unlawful, ordered payment of damages. While having made the full*

			payment of damages in October 2010, the unions continue to claim that they should not be ***held liable for industrial action which was considered to be lawful at the time it was undertaken****; any expectation that the unions should have known that the action would be found unlawful under European Law several years later is wholly unreasonable.* *The Committee, observing that the Government has still not provided any reply to this point, first wishes to recall its considerations when examining the impact of the International Transport Workers' Federation and the Finnish Seaman's Union v. Viking Line ABP (Viking) and Laval judgments in another European country. As in that case, the Committee wishes to recall that its task is not to judge the correctness of the ECJ's holdings in Viking and Laval as they set out an interpretation of the European Union Law, based on varying and distinct rights in the Treaty of the European Community, but rather to examine whether the impact of these decisions at national level is such as to deny workers' freedom of association rights under Convention No. 87. The Committee raised the concern at the time that the omnipresent threat of an action for damages that could bankrupt the union, possible in the light of the Viking and Laval judgments, created a situation jeopardizing the exercise of the rights under the Convention. In this specific case, the Committee is deeply concerned that the union in question has been held liable for an action that was lawful under national law and for which it could not have been reasonably presumed that the action would be found to be in violation of European Law. The Committee recalls that* ***imposing sanctions on unions for leading a legitimate strike*** *is a grave violation of the principles of freedom of association. The Committee considers that this principle is all the more relevant in the circumstances where the action was lawful at the time it was exercised. While aware that the payment has already been made to the trustee in bankruptcy, the Committee requests the Government to review this matter with the social partners concerned so as to study possible solutions for compensation of the two unions, particularly in light of the 2004 court judgment leading the unions to believe their action was lawful.* **2022***: In its previous comment, the Committee requested the Government to provide details on the proposals made by the inquiry appointed to review the exercise of the right to industrial action as well as on the bill drafted by the social partners to address the issues in relation to the exercise of the right to strike. The Committee takes due note of the Government's indication that following the inquiry, the Ministry of Employment decided to proceed with the proposal submitted by the social partners and submitted a bill entitled*

			"Extended obligation to keep the peace in workplaces where there is a collective agreement and in the event of legal disputes" to the Parliament. The Bill was adopted and the amendments to the Act on Co-Determination in the Workplace, which set forth conditions under which the right to industrial action against an employer bound by a collective agreement could be exercised, entered into force on 1 August 2019. The Committee notes the adoption and entering into force of this new law and requests the Government to provide information on developments under the 2019 amendments, including any situations in which the right to industrial action was exercised and situations in which it was not.
152. Switzerland	1994, 1995, 1996, 1998, 2000, 2001 (Observations) 1989, 1991, 1993, 2001, 2002, 2004, 2006, 2008, 2010, 2012, 2015, 2018, 2022 (Direct requests)	Public servants - sanctions - compensatory guarantees	**1994:** *With reference to its previous comments on the need to amend the national legislation (section 23(1) of the federal Act of 30 June 1927 banning strikes by public servants) in order to guarantee that* ***public servants*** *who are not agents of the public authority and their organizations have the right to strike as a means of defending their economic, social and occupational interests, the Committee notes the Government's statement in its report that the Federal Council has not yet issued any decision as to the amendments it intends to propose to Parliament in the context of the federal Act concerning the conditions of service of the public service, but that it is planned to deal with this issue in the Statement concerning the total revision of the above Act, which is to be adopted in 1994.* *The Committee also notes the comments of the USS to the effect that the ban on the right to strike affects all public employees of the Confederation, regardless of their functions or the length of their appointments. The USS also considers that the fact that decisions concerning the status of public servants lie with Parliament does not release the Government from its obligation to propose the revision of the federal Act concerning public servants.* *The Committee once again expresses the hope that the Statement concerning the total revision of the federal Act respecting the conditions of service of the public service will take account of the principles of freedom of association, and asks the Government to indicate any measures taken in this respect in its next report, and that it will, in particular, guarantee the right strike for the defence of their professional interests, at least to the civil servants other than those exercising authority in the name of the State (see 1994 General Survey on Freedom of Association and Collective Bargaining, para. 158).*

			The Committee notes that, in its report, the Government states that no court decisions have been handed down during the period covered by the report. *It notes in this connection that the USS indicates that the workers concerned are unable, because of the type of disciplinary measures to which they are liable, to appeal to the joint disciplinary committee, that they are not entitled to appeal to the Federal Tribunal, and that the USS together with its public service federations is seeking a lower threshold for the lodging of appeals with the Federal Tribunal. According to the USS, generally speaking the* ***protection against dismissal provided for in the law*** *is weak, which enables certain employers to restrict the exercise of the right to strike.* *In these circumstances, the Committee must point out that under Articles 3 and 10 of the Convention workers' organizations have the right to organize their activities freely in order to promote and defend the interests of their members, including by calling strikes, and that the authorities must refrain from any intervention liable to restrict this right or to impair the legal exercise thereof. In the Committee's view, moreover, legislation should provide for genuine protection in this respect, otherwise the right to strike may be devoid of content (see 1994 General Survey, op. cit., para. 139).* *The Committee recalls the Government's indication in its previous report that 11 employees of the federal railways (CFF) who were penalized for going on strike had filed a second and final appeal, and again asks the Government to provide copies of the respective judgements as soon as they have been handed down.* **2006**: *Article 3 of the Convention. 1. In its previous comments, noting that the Ordinance on Confederation Personnel, which entered into force on 1 January 2002, excludes from the right to strike persons exercising authority in the name of the State or providing essential services, the Committee asked the Government to indicate the compensatory guarantees provided for in the legislation for the staff of the federal administration (other than the armed forces) who are deprived of the right to strike, and in particular for civilian customs personnel. The Committee notes the Government's statement that no measures or procedures are in place or planned for staff of the federal administration who are denied the right to strike, and that there have been no judgements concerning federal staff and the Convention.* ***The Government also indicates that the Committee's interpretation of the Convention's provisions on the right to strike is not authoritative and was not taken up by the Conference Committee.***

			2. With regard to the prohibition of the right to strike for public officials of some cantons and the obstacles to the exercise of this right which are said to exist in some communes, the Committee noted previously that the results of consultations with the cantons had been sent to a committee of the National Council, and asked the Government to provide information on the results of these consultations to enable it to examine the legislation and practice. The Committee notes that, according to the Government, the results of the consultation were indeed forwarded to a parliamentary committee charged with considering a parliamentary initiative filed in 1991 seeking ratification by Switzerland of the European Social Charter. In the Swiss parliamentary system, a parliamentary initiative is dealt with directly by Parliament and the Government assists Parliament with specific tasks. ***Here, the matter was examined in the light of Article 6(4) of the European Social Charter which refers to the right to strike, and not the Convention, which says nothing on the subject.*** *In accordance with the principle of the separation of powers and in view of the fact that, in Switzerland, parliamentary initiatives are dealt with directly by Parliament and not by the Government, the Government has no authority to disseminate a text intended for a parliamentary committee.* ***The Government wished to point out*** *that the Swiss Federation of Trade Unions has asked that the Tripartite Committee on ILO Matters discuss the situation regarding the right to strike in the cantons and communes in the light of article 28 of the Federal Constitution and* ***that it is not in a position to be seized of the matter because recognition of the right to strike in general and for the personnel of the cantons and communes in particular does not derive from the Convention.***
153. Tadjikistan	2000, 2001, 2002, 2003, 2004, 2006 (Observations) 1998, 1999, 2008, 2010, 2012, 2013, 2014, 2016, 2018, 2019, 2020, 2021, 2022 (Direct requests)	Right to strike in the transport sector - majority for calling a strike - duration of a strike - essential services - compensatory guaranties - sanctions	**2000:** *Concerning article 211(3) of the Labour Code which provides that* ***restrictions of the right to strike*** *shall be subject to the provisions of legislation in force in Tajikistan, the Committee requests the Government to provide the text of the provisions relating to such restrictions. Furthermore, the Committee requests the Government to state whether the former provisions of the Penal Code which were at the time applicable in the USSR, and particularly section 190(3), which contained significant restrictions on the exercise of the right to strike in the transport sector, enforceable by severe sanctions, including sentences of imprisonment for up to three years, have been repealed by a specific text.* **2008***: The Committee notes that according to section 211(2) of the Labour Code of 1997, a decision to declare a strike should be taken by a meeting of workers or of an appropriate workers' representative body. Such a decision should be adopted by not less*

			than two-thirds of those present at the meeting (representative body) or two-thirds of the delegates to the conference of workers' representatives, subject to a quorum of more than half of all members of the workforce (representative body) being present at the meeting (or two-thirds of delegates present at the conference). The Committee considers that while a requirement of a strike ballot does not, in principle, raise problems of compatibility with the Convention, the ***ballot method, the quorum and the majority required*** *should not be such that the exercise of the right to strike becomes very difficult, or even impossible in practice; if a member State deems it appropriate to establish in its legislation provisions which require a vote by workers before a strike can be held, it should ensure that account be taken only of the votes cast and that the required quorum and majority are fixed at a reasonable level (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 170). In these circumstances, the Committee considers that while the quorum provided for by section 211(2) seems to be compatible with the freedom of association principles, the requirement that a decision to strike should be taken by two-thirds of those present at the meeting is excessive and limits the right to strike. The Committee therefore requests the Government to amend section 211(2) of the Labour Code, so as to lower this requirement and so as to ensure that account is taken only of the votes cast in determining the outcome of a strike ballot. The Committee requests the Government to indicate the measures taken or envisaged in this respect.* *The Committee notes that section 211(3) of the Labour Code imposes the obligation to i****ndicate, in the strike notice, its possible duration****. The Committee requests the Government to indicate whether workers or their organizations can declare a strike for an indefinite period of time.* *The Committee further notes that according to section 211(4) of the Labour Code, right to strike can be* ***restricted in cases where this might endanger the life and health of individuals or the security and defence capacity of the State*** *and that such restrictions are subject to the provisions of the legislation in force. While noting that restrictions of the right to strike seem to be limited to the essential services in the strict sense of the term, the Committee requests the Government to provide a list of services where the right to strike is restricted or prohibited and to indicate the relevant legislative provisions. Recalling that if the right to strike is subject to restrictions or a prohibition, workers who are thus deprived of an essential means of defending their socio-economic and occupational interests should be afforded compensatory guarantees, the Committee*

			requests the Government to indicate, in its next report, whether any such protection is given to workers deprived of their right to strike and to indicate the applicable legislative provisions. *The Committee notes that under section 160 of the Criminal Code,* ***a violation of procedure for organizing and carrying out meetings, manifestations and pickets is sanctioned by a fine of up to 2,000 minimum salaries or of up to two years' imprisonment.*** *The Committee requests the Government to indicate whether trade unionists can be sanctioned under this provision for exercising legitimate trade union activities, such as strikes and meetings.* **2022**: *The Committee notes that pursuant to section 323(2) of the Labour Code, a decision to declare a strike should be taken by a meeting of workers or of an appropriate workers' representative body. Such a decision should be adopted by not less than two thirds of those present at the meeting (representative body) or two thirds of the delegates to the conference of workers' representatives. The Committee considers that requiring a decision by two thirds of those present at the meeting is excessive and could unduly hinder the possibility of calling a strike. The Committee therefore requests the Government to amend this provision so as to lower the majority required for the calling of a strike. It requests the Government to indicate all measures taken in this respect.* *The Committee notes that, pursuant to section 323(5) of the Labour Code, the right to strike can be restricted by legislation in cases where it might endanger the life and health of individuals or the security and defence capacity of the State. The Committee requests the Government to indicate services where the right to strike is so restricted or prohibited, with reference to the relevant legislative provisions.* *The Committee recalls that when the right to strike is restricted or prohibited in certain enterprises or services considered essential, or for certain public servants exercising authority in the name of the State, the workers should be afforded adequate protection so as to compensate for the restrictions imposed on their freedom of action. Such protection should include, for example,* ***impartial conciliation and eventually arbitration procedures which have the confidence of the parties, in which workers and their organizations***

			could be associated. *Such arbitration awards should be binding on both parties and once issued should be implemented rapidly and completely.The Committee requests the Government to indicate whether alternative compensatory guarantees of this nature are afforded to workers deprived of their right to strike pursuant to section 323(5) of the Labour Code and to indicate the applicable legislative provisions.* *In its previous comments, the Committee had noted that under section 160 of the Criminal Code, a violation of procedure for organizing and carrying out meetings, demonstrations and pickets is sanctioned by a fine of up to 2,000 times the minimum wage or of up to two years' imprisonment. It requested the Government to indicate whether trade unionists had been sanctioned under this provision for exercising legitimate trade union activities. The Committee notes the Government's indication that section 160 of the Criminal Code has never been used to prosecute trade unionists for exercising legitimate trade union activities. The Government stresses that participants in peaceful strike action assume no criminal liability and that this provision has not been applied in practice. The Committee takes due note of this information and trusts that this provision will not be used to sanction trade unionists for exercising legitimate trade union activities.*
154. Turkmenistan	2010, 2012, 2016, 2018 (Direct requests) 2022 (Observation)	Right to strike - compulsory arbitration	**2010:** *The Committee notes that the provisions of the Labour Code concerning collective labour disputes do not refer to the right to strike and that the Government provides no information in this regard. The Committee therefore requests the Government to provide a copy of all relevant* ***legislation regulating the right to strike.*** **2012:** *The Committee further considers that in as far as* ***compulsory arbitration,*** *including through judicial proceedings, prevents strike action, it is contrary to the right of trade unions to organize freely their activities and could only be justified in the public service for public servants exercising authority in the name of the State or in essential services in the strict sense of the term, i.e. services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee therefore requests the Government to take the necessary measures, in consultation with the social partners, in order to ensure the application of this principle in law and in practice. It requests the Government to indicate in its next report all measures taken or envisaged to that end.*

			2016: *It further considered that in so far as compulsory arbitration, including through judicial proceedings, prevents strike action, it was contrary to the right of trade unions to organize freely their activities and could only be justified in the public service for public servants exercising authority in the name of the State or in essential services in the strict sense of the term, that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee had requested the Government to take the necessary measures, in consultation with the social partners, in order to ensure the application of this principle in law and in practice.* ***The Committee notes that the Government considers the Committee's request to be beyond the scope of the Convention*** *and reiterates the information it had previously provided.* T*he Committee recalls that the matters raised fall within its well-recognized mandate to undertake an impartial and technical analysis of how the Convention is applied in law and practice for all ratifying member States and once again requests the Government to indicate all measures taken or envisaged to ensure the application of the abovementioned principle in law and in practice.* **2022:** *The Committee further considered that insofar as compulsory arbitration, including through judicial proceedings, prevents strike action, it was contrary to the right of trade unions to organize freely their activities and could only be justified in the public service for public servants exercising authority in the name of the State or in essential services in the strict sense of the term, that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee had requested the Government to take the necessary measures, in consultation with the social partners, in order to ensure the application of this principle in law and in practice. The Committee notes with* regret *that the Government did not provide any information on this matter. The Committee is therefore bound to reiterate its previous request. The Committee expects the Government to provide information on all steps taken or envisaged in this respect.*
155. Turkey	2004, 2006, 2007, 2008 (Direct requests) 2018, 2019, 2020, 2022	Interference by public authorities - strike suspension	**2004:** *The Committee notes that, under section 33, the Council of Ministers can* ***suspend for 60 days a lawful strike for public health and national security reasons****. Appeals can be lodged with the Council of State. The Committee notes that, in accordance with section 34, if the parties have not been able to reach a settlement upon the expiry of the suspension period, the Ministry of Labour refers the matter to compulsory arbitration. The Committee notes that the draft bill amending Act No. 2822 modifies section 33 in order to*

	(Observations)		*provide for the advisory opinion of the Council of State before the suspension is decided by the Council of Ministers. The Committee recalls that a strike may be prohibited in a situation of acute national crisis, and that in such instances compulsory arbitration can be acceptable to settle the dispute. The Committee notes that the issue at hand lies with the exercise by the Council of Ministers of its power under section 33 rather than with the circumstances provided for such exercise under the law. In this respect, the Committee, like the Committee on Freedom of Association, considers that* ***the responsibility for suspending a strike under section 33 should lie with an independent body which has the confidence of all the parties concerned****. The Committee requests therefore the Government to amend section 33 accordingly so that the suspension of the strike lies with the courts and that the right of workers' organizations to organize their activities and formulate their programmes free from interference by the public authorities in accordance with Article 3 is fully guaranteed. The Committee also requests the Government to keep it informed of any practical application of section 33 and to submit its reply in respect of the four strikes called by one of DISK's affiliates in the rubber sector, to which DISK refers in its comments attached to the Government's report, and which have reportedly been postponed by the Council of Ministers.*
	2014, 2015, 2018, 2019, 2020, 2022 (Direct requests)	Sympathy strikes and other strikes	**2014:** *The Committee observes that section 58 of Act No. 6356 restricts lawful strike to disputes during collective bargaining negotiations and requests the Government to indicate the manner in which* ***protest action, sympathy strikes and other means of legitimate industrial action*** *are protected (see General Survey, op. cit., 2012, paragraphs 124–126) in line with the 2010 constitutional amendment.*
	2014, 2015, 2018, 2019, 2020, 2022 (Direct request)	Minimum service	**2014:** *The Committee notes that section 65 of the Act sets out the conditions for the* ***establishment of a minimum service*** *at the workplace to be* ***determined unilaterally by the employer****. The Committee further notes that this decision may be appealed to the courts for a final determination. The Committee recalls in this respect that workers' organizations should be able to participate in the determination of a required minimum service at the workplace and failing agreement, the matter should be determined by an independent body with the confidence of the parties concerned (see General Survey, op cit, 2012 paragraphs 137–138). The Committee requests the Government to take steps to review this provision in consultation with the social partners with a view to its amendment and to provide information on any developments in this regard.*

	2000, 2001, 2002, 2004, 2006, 2007, 2008, 2009, 2010, 2011 (Observations) 2015, 2018, 2019, 2022 (Direct requests)	Restriction on the right to strike - Public servants	**2000:** *As concerns the **right to organize for public servants**, the Committee notes from the Government's report that the draft bill on public servants' unions submitted by the Government has been approved by the Parliamentary Committee on Health and Social Affairs with several amendments. However, the Parliamentary Committee on Planning and Budget has not concluded its work yet. The Government provided the latest version of the draft Bill in Turkish with its report, indicating that it was still subject to amendments that might be proposed by the Committee on Planning and Budget and General Assembly. The Committee regrets however that the Government did not respond to the 1999 comments made by DISK to the effect that this Bill was in direct contravention with certain principles of freedom of association. The Committee requests the Government to provide information in its next report in reply to the comments made by DISK when the Committee will also be in a position to fully examine the contents of the draft Bill. In this respect, the Committee recalls the need to adopt legislation to ensure the full rights of the Convention to public servants, including the right to strike for public servants who are not exercising authority in the name of the State. It requests the Government to indicate in its next report any developments in respect of the draft Bill.* **2022:** *In its **previous comments**, the Committee had noted that **public servants in the broad sense of the term were prohibited from taking industrial action**, and that the Public Employees Act No. 657 and Act No. 6111 provides disciplinary sanctions for such action. The Committee had noted that according to the Confederation of Public Employees Trade Unions (KESK), the ban on industrial action in the public sector covered a very broad class of workers, whose number amounted to three million. The Committee had requested the Government to review the legislation concerning public service workers with the relevant social partners with a view to its amendment, so as to ensure that the ban on industrial action is limited to public servants exercising authority in the name of the State and those working in essential services. Noting with regret that no information has been provided by the Government, the Committee reiterates its previous request and asks that the Government provide information an all measures taken or envisaged in this respect.*
	2001, 2002, 2004, 2006 (Observations)	Compulsory arbitration	**2001:** *The Committee also recalls that restrictions to the right to strike by the **imposition of compulsory arbitration** can only be justified in respect of this limited category of public servants and those working in essential services in the strict sense of the term. Further, where the right to strike may be prohibited or limited, compensatory guarantees should be*

			afforded to public servants, such as mediation and conciliation procedures or, in the event of deadlock, arbitration with sufficient guarantees of impartiality and rapidity. The Committee therefore requests that the Government take the necessary measures to ensure that those public servants who are not exercising authority in the name of the State and who cannot be deemed to be carrying out essential services in the strict sense of the term have recourse to industrial action without penalty.
156. Ukraine	1998, 2000, 2002, 2004, 2006, 2008, 2010, 2012, 2016, 2018, 2022 (Observations)	Quorum and majority required for a strike ballot - public servants - sanctions	**1998:** *Finally, the Committee requests the Government to indicate in its next report whether the former provisions of the Penal Code which were previously applicable in the USSR, and particularly section 190(3) which contained* ***significant restrictions on the exercise of the right to strike in the public and transport sectors enforceable by severe sanctions,*** *including up to three years' imprisonment, have been repealed by a specific text.* **2012**: *[…] The Committee had previously requested the Government to indicate categories of public servants whose right to strike is restricted or prohibited. The Committee notes that* ***the Government reiterates that public servants are prohibited from exercising the right to strike and that a new legislation on Public Service, which will enter into force on 1 January 2013, contains provisions to the same effect.*** **2022**: *The Committee notes the extremely difficult situation in the country since 24 February 2022. In the absence of a report from the Government on the application of the Convention, the Committee recalls that it had previously requested the Government:* - *[…]* - *to take the necessary measures to amend section 19 of the Law on the procedure for settlement of collective labour disputes so as to ensure that if the national legislation requires* ***a vote before a strike can be held, account is taken only of the votes cast and the majority is fixed at a reasonable level****;* - *to clarify which categories of* ***civil servants*** *exercise authority in the name of the State and whether some or all civil servants are prohibited from exercising the right to strike, and to amend section 10(5) of the Law on Civil Service so as to ensure that the right to strike in the public service may be restricted or prohibited only for public servants exercising authority in the name of the State; and* - *to provide information on the practical application of section 293 of the Criminal Code, which provides that organized group actions that seriously disturb public*

			*order, or significantly disrupt operations of public transport, any enterprise, institution or organization and active participation therein, are **punishable by a fine** of up to 50 monthly minimum wages **or imprisonment** for a term of up to six months, in respect of industrial actions.*
157. United Kingdom of Great Britain and Northern Ireland	1989, 1990, 1991, 1992, 1993, 1995, 1996, 1998, 2008 (Observations) 2006 (Direct request)	Dismissal of strikers	**1989:** *The Committee considers that it is inconsistent with the right to strike as guaranteed by Articles 3, 8 and 10 of the Convention for an employer to be permitted to **refuse to reinstate some or all of its employees at the conclusion of a strike, lock-out or other industrial action** without those employees having the right to challenge the fairness of that dismissal before an independent court or tribunal. The Committee on Freedom of Association has adopted a similar approach (see Digest of Decisions and Principles of the Committee on Freedom of Association, 3rd edition, 1985, paragraphs 442, 444, 445, 555 and 572). In this connection, the Committee notes that common law strikes and most other forms of industrial action constitute a repudiatory breach of the individual worker's contract of employment. This has the consequence that the employer may lawfully treat the employment relationship as at an end without more ado. This happens only infrequently in practice. But it can happen, and the Committee is aware that there have been a number of situations in recent years where employers have used the fact that their employees were on strike as an excuse for dispensing with the services of their entire workforce, and recruiting a new one. The Committee also notes that a lock-out would also constitute a repudiatory breach of the contracts of employment of the workers concerned. However the common law does not provide a means whereby those workers could obtain reinstatement in their employment, no matter how arbitrary or unreasonable the employer's behaviour had been. Furthermore, it would be in only very exceptional circumstances that such workers could obtain other than nominal damages at common law.* *It is clear, therefore, that the common law does not accord workers who have been dismissed in connection with a strike, lock-out or other form of industrial action the right to present a complaint against that dismissal to a court or other authority independent of the parties concerned. The same is true of statutory provision relating to unfair dismissal - subject to the limited measure of protection which is afforded to those who are subjected to **"discriminatory dismissal"** within the meaning of section 62 of the Employment Protection (Consolidation) Act 1978 (as amended by section 9 of the 1982 Act). The Committee considers that this latter provision does not provide adequate protection for the purposes of the Convention: (i) because it still permits an employer to dismiss an*

			entire workforce, even where the employer has initiated a lock-out or has provoked a strike through entirely unreasonable behaviour; and (ii) because an employer can re-hire on a discriminatory basis so long as there is a gap of three months between the dismissal of the "victimised" workers and the re-hiring. Consequently, the Committee asks the Government to introduce legislative protection against dismissal, and other forms of discriminatory treatment such as demotion or withdrawal of accrued rights, in connection with strikes and other industrial action so as to give effect to the principles set out above. **2008:** *The Government adds that **it does not support the view that the employer must never dismiss employees under any circumstances when they take industrial action**.*
	1989, 2008, 2010 (Observations) 2006, 2008, 2010, 2012, 2015, 2016, 2022 (Direct requests)	Reinstatement of workers	**2010:** *In its previous comments, the Committee recalled that for the right to strike to be effectively guaranteed, the workers who stage a lawful strike **should be able to return to their posts after the end of the industrial action**. Making the return to work conditional on time limits and on the employer's consent constituted, in the Committee's view, obstacles to the effective exercise of this right, which constitutes an essential means for workers to promote and defend the interests of their members. The Committee therefore requested the Government to indicate any measures taken or contemplated with a view to strengthening the protection available to workers who stage official and lawfully organized industrial action. The Committee notes that the Government reiterates that those participating in lawfully organized, official industrial action are protected against dismissal for action which lasts 12 weeks or less. Dismissing a worker for taking industrial action during this period is considered to be automatically unfair. Virtually all industrial action in the United Kingdom lasts less than 12 weeks and therefore this protection extends to virtually all workers who stage official and lawfully organized strikes. In addition, regardless of the duration of the industrial action, an employer cannot dismiss a worker for taking industrial action if the employer has failed to take reasonable procedural steps to resolve the dispute with the trade union (i.e. agreed procedures for dispute resolution). The Government however maintains that it is not appropriate to support the view that an employer must never dismiss employees under any circumstances when they take protected industrial action. In any event, the sacking of strikers is very rare in the United Kingdom. The Committee recalls the importance it attaches to the **maintenance of the employment relationship** as a normal legal consequence of the recognition of the right to strike (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 139). While provisions that enable employers to*

			dismiss workers during or at the conclusion of an industrial action on the grounds of illegitimate or unlawful action may be in conformity with the provisions of the Convention, it considers that restricting the right to maintain the employment relationship to industrial action of twelve weeks or less places an arbitrary limit on the effective protection of the right to strike in a manner contrary to the Convention. The Committee therefore ***once again requests the Government to review the TULRA****, in full consultation with workers' and employers' organizations concerned, with a view to strengthening the protection available to workers who stage official and lawfully organized industrial action and to provide information on the steps taken in this regard.*
	2015, 2016, 2018, 2022 (Observations) 1996 (Direct request)	Strike ballot – electronic ballot	**2015**: *as regards the ballot requirements raised by the TUC, the Committee observes that two sets of additional requirements related to strike ballots are being proposed. Section 2 of the Bill introduces a new requirement of a* ***50 per cent participation quorum*** *to be reached in strike ballots. In this regard, the Committee recalls in its 2012 General Survey on the fundamental Conventions, paragraph 147 that, while it has always stated that a quorum should be fixed at a reasonable level, it has consistently considered that a quorum of 50 per cent is indeed within such limits of reasonableness. The second requirement referred to by the TUC concerns the heightened conditions in important public services of support by 40 per cent of all workers (section 3 of the Bill), which effectively means a requirement of 80 per cent support where only the 50 per cent participation quorum has been met. …* *The Committee further notes the TUC concerns that these changes come within a cumulated context of heavy procedural requirements for balloting, including the fact that balloting must be by postal voting only and that* ***secret workplace voting and electronic voting are not allowed****. The Committee further observes that Unison had raised similar concerns and that in one case referred to it, the employer challenged the confidentiality of postal voting. The Committee invites the Government to review the ballot method with the social partners concerned with a view to its possible modernization while bearing in mind the rights and interests of all parties concerned.* **2022:** *In its* ***previous comment****, the Committee had requested the Government to provide information on the measures taken to facilitate* ***electronic balloting (eballoting)*** *for industrial action ballots. The Committee notes both the TUC's and the Government's indications that the review of eballoting conducted in 2017 resulted in certain*

			recommendations, including pilots of eballoting in non-statutory areas as a first step. According to the Government, round table consultations on the recommendations were held both with experts and with trade unions. The Government indicates that details will be provided after the finalization of its consideration of the recommendations. The Committee trusts that this work will be finalized without further delay and that the Government will provide information thereon in its next report. *The Committee had also requested the Government to review section 3 of the Trade Union Act, 2016 with the social partners to ensure that the requirement of* ***support by 40 percent of all workers for strike ballot*** *did not apply to the education and transport sectors. The Committee notes the Government's indication that the Act, including the ballot thresholds, will be reviewed with the social partners in the future. The TUC indicates that the imposition of the ballot threshold of 40 percent to the two abovementioned sectors imposes a requirement of 80 per cent voting support if only 50 percent of the members vote and poses a significant barrier to union members exercising their right to strike. The Committee urges the Government to review section 3 of the Trade Union Act with the social partners without further delay in order to ensure that the support of 40 percent of all workers is not required for a strike ballot in the education and transport services.*
	2015, 2018, 2022 (Observations)	Ballot in education and transport	**2015:** *The Committee notes that the following categories have been identified as important public services: health services, education of those aged under 17, fire services, transport services, decommissioning of nuclear installations and management of radioactive waste and spent fuel, and border security. While the Committee generally considers that a requirement of the support of 40 per cent of all workers to carry out a strike would constitute an obstacle to the right of workers' organizations to carry out their activities without interference, it further observes that a number of the services set out in section 3 fall within the Committee's understanding of essential services in the strict sense of the term or of public servants exercising authority in the name of the State, in which restrictions on industrial action are permissible. The Committee does however express concern that this restriction would also touch upon the entire primary and secondary education sector, as well as all transport services, and considers that such a restriction is likely to severely impede the right of these workers and their organizations to organize their activities in furtherance and defence of their occupational interests without interference. The Committee recalls in this regard that recourse might be had to negotiated minimum services for these sectors, as appropriate. The Committee requests the Government to review this matter with the social partners concerned with a view to*

			modifying the Bill so as to ensure that ***the heightened requirement of support of 40 per cent of all workers does not apply to education and transport services****.* **2022**: *The Committee had also requested the Government to review section 3 of the Trade Union Act, 2016 with the social partners to ensure that the requirement of support by 40 percent of all workers for strike ballot did not apply to the education and transport sectors. The Committee notes the Government's indication that the Act, including the ballot thresholds, will be reviewed with the social partners in the future. The TUC indicates that the imposition of the ballot threshold of 40 percent to the two abovementioned sectors imposes a requirement of 80 per cent voting support if only 50 percent of the members vote and poses a significant barrier to union members exercising their right to strike. The Committee urges the Government to review section 3 of the Trade Union Act with the social partners without further delay in order to ensure that* ***the support of 40 percent of all workers is not required for a strike ballot in the education and transport services****.*
	2015, 2016, 2018, 2022 (Observations)	Picketing	**2015:** *As regards picketing, the Committee notes the TUC's observations that the additional* ***conditions for lawful picketing*** *raise a number of concerns: the requirement to notify the police of the identity and contact details of activists may expose individuals to blacklisting; the union is automatically liable for any failure; and these requirements are discriminatory as they only affect pickets organized by trade unions but not those organized by other groups. The Committee notes the Government's comments that it recognizes peaceful picketing as a legitimate and lawful activity; however, there is worrisome evidence of intimidation during picketing. The Government assures, however, that the police is bound by the Human Rights Act and Data Protection Act when handling picket supervisors' contact details. The Committee requests the Government and the TUC to provide information on the impact of the application of this notification requirement in practice, including any complaints that may be made in relation to the handling of this information or its impact on lawful industrial action, and any information regarding the blacklisting of individuals engaged in lawful picketing.*
	1989, 1990, 1991, 1992, 1993, 1995, 1996, 1998, 2000,	Sympathy strike	**2010:** *In its previous comments, the Committee had noted that according to the TUC, due to the decentralized nature of the industrial relations system, it was essential for workers to be able to take action against employers who are easily able to undermine union action by complex corporate structures, transferring work, or hiving off companies. The*

	2002, 2004, 2006, 2008, 2010, 2012 (Observations)		*Committee generally raised the need to protect the right of workers to take industrial action in relation to matters which affect them even though, in certain cases, the direct employer may not be party to the dispute, and to* ***participate in sympathy strikes*** *provided the initial strike they are supporting is itself lawful. The Committee takes note of the Government's reiteration that it has no plans to change the law in this area. The Committee emphasizes that the globalization of the economy and the delocalization of work centres may have a severe impact on the right of workers' organizations to organize their activities in a manner as to defend effectively their members' interests should lawful industrial action be too restrictively defined. The Committee therefore recalls that workers should be able to participate in sympathy strikes, provided the initial strike they are supporting is lawful, and to take industrial action in relation to social and economic matters which affect them and requests the Government to review sections 223 and 224 of the TULRA, in full consultation with the social partners, and to provide further information in its next report on the progress made in ensuring respect for this principle.*
	1989, 1990, 1991, 1992, 1993, 1995, 1996, 1998, 2000, 2002, 2004 (Observations)	Unjustifiable discipline by unions for members who refuse to strike	**1989:** *The Committee notes that section 3(1) of the 1988 Act provides that* ***all members or former members of a union have the right not to be "unjustifiably disciplined" by that union****. "Discipline" for these purposes includes being expelled from the union or a branch or section thereof; the imposition of a fine; deprivation of, or denial of access to, the benefits, services or facilities which would otherwise be available by virtue of union membership; or being subjected to "any other detriment" (section 3(5)). The grounds upon which disciplinary action would be regarded as "unjustifed" are set out in section 3(3). They relate principally to disciplinary measures imposed because of: a refusal to participate in industrial action; encouraging or assisting another person to refuse to participate in industrial action; and complaining that a union or an official thereof has acted, or proposes to act, in an unlawful manner. The Committee recalls that one of the basic rights which is guaranteed by Article 3 of the Convention is the right of organisations of workers and employers to draw up their constitutions and rules free from any interference which would restrict this right or impede the lawful exercise thereof. It is clear that provisions which deprive trade unions of the capacity lawfully to give effect to their democratically determined rules are, prima facie, not in conformity with this right. Section 3 of the 1988 Act clearly has this effect, and on that basis is not in conformity with Article 3. The Committee, nevertheless, considers that the right of organisations to draw up their constitutions and rules must be subject to the need to respect fundamental human*

			rights and the law of the land (bearing in mind that Article 8(2) of the Convention stipulates that the law of the land shall not be such as to impair the guarantees provided for in the Convention). This means that it would not be inconsistent with the requirements of the Convention to require that union rules must not discriminate against members or potential members on grounds of race or sex. The same is true for provisions (such as section 3(3)(c) of the 1988 Act) which state that unions may not discipline members who, in good faith, assert that their union has breached its own rules, or the law of the land. However, the Committee is also of the view that the nature and extent of legislative incursions upon union autonomy must be limited to that which is absolutely necessary in order to achieve these objectives - otherwise the rights guaranteed by Article 3 would be deprived of all practical effect. It follows that proper respect for the guarantees provided by Article 3 requires that union members should be permitted, when drawing up their constitutions and rules, to determine whether or not it should be possible to discipline members who refuse to participate in lawful strikes and other industrial action or who seek to persuade fellow members to refuse to participate in such action. Section 3 of the Act should be amended so as to take account of this view.
	1995, 1996, 1998, 2000 (Direct requests)	Third-party right	**1995:** *The TUC has also indicated that section 22 of the 1993 Act further inhibits legitimate industrial action by opening up the* ***possibility for legal action against a strike for any individual who is deprived or likely to be deprived of goods or a service by unlawfully organized industrial action****. According to the TUC, such individuals may apply for interlocutory injunctions to restrain strikes and the balance of convenience test normally applied by the British courts invariably works to the disadvantage of trade unions. In its reply, the Government states that this provision does not remove any part of the statutory protection available under the law for the organization of industrial action, but simply creates a new individual right which ensures that there is a legal remedy for anyone deprived of goods or services because of unlawfully organized industrial action. As concerns the interlocutory court order, the Government explains that this is necessary to avoid such proceedings from being decided at full trial, after many months during which such potentially unlawful action could continue. The Government also points out that the use of the long-established balance of convenience test does not mean that the proceedings invariably result in an award of an order against the trade union and gives a recent example of where the courts refused to award such an interlocutory order. While noting the Government's explanations for the creation of this new individual right, the Committee can only consider that this "third-party right", in so far as it may result in*

			injunction orders against strikes, provides yet another obstacle to the exercise of the right to strike by opening the industrial action of trade unions to constant attack from an infinite number of potentially deprived third parties and requests the Government to give consideration to repealing section 22 of the 1993 Act.
158. Uzbekistan	2020, 2022 (Direct requests)	Recognition of right to strike – prohibition on the right	**2020:** *The Committee notes that while according to section 281 of the Labour Code, the procedure for resolving collective labour disputes regarding the establishment of new working conditions or changes in existing working conditions is established by law, the LTU* ***does not explicitly provide for the right to strike****. […]* **2022:** *In its previous comments, the Committee had noted that the procedure for resolving collective labour disputes under section 281 of the Labour Code did not explicitly provide for the right to strike, and requested the Government to indicate which laws recognized and regulated this right. The Committee notes the Government's indication that it is currently studying best international practices with regard to the right to strike with a view to incorporating an effective regulatory framework into its legislation. The Committee also notes the IUF allegation that* ***most strikes are currently prohibited and punishable under section 218 of the Criminal Code*** *and section 201 of the Administrative Code. Moreover, the IUF states that the Ministry of Justice Order No. 193 of 2016* ***allows the Ministry to refuse to authorize public actions for unspecified administrative reasons****, which results in most demonstrations being unauthorized and participants facing harsh penalties.*