



EIGHTH ITEM ON THE AGENDA

**331st Report of the Committee
on Freedom of Association****Contents***Paragraphs***Part I**

Introduction	1-112
---------------------------	-------

Case No. 2127 (Bahamas): Report in which the Committee requests to be kept informed of developments

Complaint against the Government of Bahamas presented by the Commonwealth of the Bahamas Trade Union Congress (CBTUC), the National Congress of Trade Unions (NCTU), the Bahamas Air Traffic Controllers' Union (BATCU) and the International Confederation of Free Trade Unions (ICFTU)	113-121
--	---------

The Committee's conclusions	119-120
-----------------------------------	---------

The Committee's recommendations	121
---------------------------------------	-----

Case No. 2090 (Belarus): Interim report

Complaint against the Government of Belarus presented by the Belarusian Automobile and Agricultural Machinery Workers' Union (AAMWU), the Agricultural Sector Workers' Union (ASWU), the Radio and Electronic Workers' Union (REWU), the Congress of Democratic Trade Unions (CDTU), the Federation of Trade Unions of Belarus (FPB), the Belarusian Free Trade Union (BFTU), the Belarusian Trade Union of Air Traffic Controllers (BPAD), the International Confederation of Free Trade Unions (ICFTU) and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)	122-168
---	---------

The Committee's conclusions	156-167
-----------------------------------	---------

The Committee's recommendations	168
---------------------------------------	-----

Case No. 2215 (Chile): Interim report

Complaints against the Government of Chile presented by the Latin American Workers' Confederation (CLAT).....	169-180
The Committee's conclusions	166-179
The Committee's recommendations	180

Case No. 2217 (Chile): Interim report

Complaints against the Government of Chile presented by the Chilean General Confederation of Workers (CGT) and the National Union of Metal, Communication and Energy Workers and Related Activities	181-211
The Committee's conclusions	198-210
The Committee's recommendations.....	211

Case No. 1787 (Colombia): Interim report

Complaint against the Government of Colombia presented by the International Confederation of Free Trade Unions (ICFTU), the Latin American Central of Workers (CLAT), the World Federation of Trade Unions (WFTU), the Single Confederation of Workers of Colombia (CUT), the General Confederation of Democratic Workers (CGTD), the Confederation of Workers of Colombia (CTC), the Trade Union Association of Civil Servants of the Ministry of Defence, Armed Forces, National Police and Related Bodies (ASODEFENSA), the Petroleum Industry Workers' Trade Union (USO) and the World Confederation of Labour (WCL) and others.....	212-254
The Committee's conclusions	230-253
The Committee's recommendations.....	254

Case No. 2068 (Colombia): Interim report

Complaints against the Government of Colombia presented by the General Confederation of Democratic Workers (CGTD), the General Confederation of Democratic Workers (CGTD) Antioquia Branch, the Single Confederation of the Workers of Colombia (CUT), Antioquia Executive Board and 25 other Colombian trade unions	255-266
The Committee's conclusions	263-265
The Committee's recommendations.....	266

Case No. 2097 (Colombia): Interim report

Complaints against the Government of Colombia presented by the Trade Union of Workers of Antioquia Department (SINTRADEPARTAMENTO), the National Trade Union of Workers of AVINCO S.A. (SINTRAVI), the Trade Union of Workers of "Cementos del Nare S.A." (SINTRACENARE), the Single Confederation of Workers of Colombia (CUT) Antioquia executive board and the Union of "Official" Workers and Public Employees of the General Hospital of Medellín (SINTRA Hospital General De Medellín)	267-282
The Committee's conclusions	277-281
The Committee's recommendations.....	282

Case No. 2213 (Colombia): Definitive report

Complaint against the Government of Colombia presented by the Single Confederation of Workers of Colombia (CUT) and the National Trade Union of Metalworkers, Metallurgists, Steelworkers, Miners and Electrical and Electronic Workers (SINTRAMETAL).....	283-290
The Committee's conclusions.....	288-289
The Committee's recommendation.....	290

Case No. 2226 (Colombia): Interim report

Complaints against the Government of Colombia presented by the Union of State Workers of Colombia (UTRADEC), the Single Confederation of Workers of Colombia (CUT) and the Social Security Workers' Union (SINTRASEGURIDADSOCIAL).....	291-307
The Committee's conclusions.....	299-306
The Committee's recommendations.....	307

Case No. 2237 (Colombia): Report in which the Committee requests to be kept informed of developments

Complaint against the Government of Colombia presented by the Textile Industry Workers of Colombia (SINTRATEXTIL) – Barranquilla branch.....	308-321
The Committee's conclusions.....	317-320
The Committee's recommendations.....	321

Part II*Case No. 1865 (Republic of Korea): Interim report*

Complaints against the Government of the Republic of Korea presented by the Korean Confederation of Trade Unions (KCTU), the Korean Automobile Workers' Federation (KAWF), the International Confederation of Free Trade Unions (ICFTU) and the Korean Metalworkers' Federation (KMWF).....	322-356
The Committee's conclusions.....	341-355
The Committee's recommendations.....	356

Case No. 2231 (Costa Rica): Interim report

Complaint against the Government of Costa Rica presented by the Latin American Workers' Confederation (CLAT) supported by the World Confederation of Labour (WCL).....	357-376
The Committee's conclusions.....	370-375
The Committee's recommendation.....	376

Case No. 2214 (El Salvador): Interim report

Complaint against the Government of El Salvador presented by the World Confederation of Labour (WCL).....	377-395
The Committee's conclusions.....	390-394
The Committee's recommendations.....	395

Case No. 2138 (Ecuador): Interim report

Complaint against the Government of Ecuador presented by the Ecuadorian Confederation of Free Trade Union Organizations (CEOSL) and the International Confederation of Free Trade Unions (ICFTU)..... 396-415

The Committee's conclusions 408-414

The Committee's recommendations 415

Case No. 2187 (Guyana): Interim report

Complaint against the Government of Guyana presented by Public Services International (PSI) on behalf of the Guyana Public Service Union (GPSU) 416-447

The Committee's conclusions 435-446

The Committee's recommendations 447

Case No. 2228 (India): Interim report

Complaint against the Government of India presented by the Centre of Indian Trade Unions (CITU)..... 448-472

The Committee's conclusions 466-471

The Committee's recommendations 472

Case No. 2236 (Indonesia): Interim report

Complaint against the Government of Indonesia presented by the Chemical, Energy and Mine Workers' Union (Federasi Serikat Pekerja Kimia, Energi dan Pertambangan Serikat Pekerja Seluruh Indonesia – DPP SP KEP SPSI) 473-515

The Committee's conclusions 507-514

The Committee's recommendations 515

Cases No. 2177 and 2183 (Japan): Interim report

Complaints against the Government of Japan presented by the Japanese Trade Union Confederation (JTUC-RENGO) the RENGU Public Sector Liaison Council (RENGU-PSLC), the International Confederation of Free Trade Unions (ICFTU), Public Services International (PSI), the International Transport Workers' Federation (ITF), the International Federation of Building and Wood Workers (IFBWW), Education International (EI), the International Federation of Employees in Public Services (INFEDOP) and Union Network International (UNI); the National Confederation of Trade Unions (ZENROREN) and the Japan Federation of Prefectural and Municipal Workers' Unions (JICHIROREN) 516-558

The Committee's conclusions 547-557

The Committee's recommendations 558

Case No. 2220 (Kenya): Report in which the Committee requests to be kept informed of developments

Complaint against the Government of Kenya presented by the International Organisation of Employers (IOE)..... 559-578

The Committee's conclusions 573-577

The Committee's recommendation 578

Case No. 2132 (Madagascar): Report in which the Committee requests to be kept informed of developments

Complaint against the Government of Madagascar presented by the Federation of Workers' Trade Unions of Madagascar (FISEMA), the Confederation of Christian Trade Unions of Madagascar (SEKRIMA), the Independent Trade Unions of Madagascar (USAM), the Federation of Health Workers' Unions (FSMF), the Federation of Informal Sector Workers' Unions (SEMPTIF TOMAVIA) and various other Malagasy trade unions 579-592

The Committee's conclusions..... 584-591

The Committee's recommendations 592

Case No. 2243 (Morocco): Report in which the Committee requests to be kept informed of developments

Complaint against the Government of Morocco presented by the Democratic Confederation of Labour (CDT)..... 593-623

The Committee's conclusions..... 615-622

The Committee's recommendations 623

Case No. 2169 (Pakistan): Report in which the Committee requests to be kept informed of developments

Complaint against the Government of Pakistan presented by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), on behalf of the Pearl Continental Hotels' Employees' Trade Unions Federation 624-642

The Committee's conclusions..... 634-641

The Committee's recommendations 642

Case No. 2162 (Peru): Report in which the Committee requests to be kept informed of developments

Complaint against the Government of Peru presented by the National Federation of Paper Manufacturing, Chemical and Allied Workers of PERU (FENATPAQUISP)..... 643-659

The Committee's conclusions..... 655-658

The Committee's recommendations 659

Case No. 2185 (Russian Federation): Report in which the Committee requests to be kept informed of developments

Complaint against the Government of the Russian Federation presented by the Central Committee of the Trade Union of Water Transport Workers of the Russian Federation (PRVT) supported by the Federation of Independent Trade Unions of Russia (FNPR)..... 660-677

The Committee's conclusions..... 669-676

The Committee's recommendations 677

Case No. 2199 (Russian Federation): Report in which the Committee requests to be kept informed of developments

Complaint against the Government of the Russian Federation presented by the Russian Labour Confederation (KTR).....	678-706
The Committee's conclusions	694-705
The Committee's recommendations	706

Case No. 2209 (Uruguay): Definitive report

Complaints against the Government of Uruguay presented by the InterUnion Workers' Assembly – National Confederation of Workers (PIT-CNT), the Confederation of Civil Service Unions (COFE), the Coordinating Congress of Enterprise Trade Unions and the Association of Livestock, Agriculture and Fisheries Officials (AFGAP).....	707-735
The Committee's conclusions	730-734
The Committee's recommendations.....	735

Case No. 2154 (Venezuela): Report in which the Committee requests to be kept informed of developments

Complaints against the Government of Venezuela presented by the Venezuelan Workers' Confederation (CTV), the Road Workers' Union of the State of Trujillo and the Construction and Timber Industry Workers' Federation of Venezuela (FEDRACONSTRUCCION).....	736-748
The Committee's conclusions	744-747
The Committee's recommendations.....	748

Part I

Introduction

1. The Committee on Freedom of Association, set up by the Governing Body at its 117th Session (November 1951) met at the International Labour Office, Geneva on 29 and 30 May and 6 June 2003, under the chairmanship of Professor Paul van der Heijden.
 2. The members of Salvadorean, Indian, Pakistani and Venezuelan nationality were not present during the examination of the cases relating to El Salvador (Case No. 2214), India (Case No. 2228), Pakistan (Case No. 2169) and Venezuela (Case No. 2154), respectively.
-
3. Currently, there are 90 cases before the Committee, in which complaints have been submitted to the governments concerned for their observations. At its present meeting, the Committee examined 28 cases on the merits, reaching definitive conclusions in 12 cases and interim conclusions in 16 cases; the remaining cases were adjourned for the reasons set out in the following paragraphs.

New cases

4. The Committee adjourned until its next meeting the examination of the following cases: Nos. 2248 (Peru), 2249 (Venezuela), 2250 (Argentina), 2251 (Russian Federation), 2252 (Philippines), 2253 (China/Hong Kong Special Administrative Region), 2254 (Venezuela), 2255 (Sri Lanka), 2256 (Argentina), 2257 (Canada), 2259 (Guatemala), 2260 (Brazil), 2261 (Greece), 2262 (Cambodia), 2263 (Argentina), 2264 (Nicaragua), 2265 (Switzerland), 2266 (Lithuania), 2267 (Nigeria) and 2268 (Myanmar), since it is awaiting information and observations from the governments concerned. All these cases relate to complaints submitted since the last meeting of the Committee.

Observations requested from governments

5. The Committee is still awaiting observations or information from the governments concerned in the following cases: Nos. 2088 (Venezuela), 2103 (Guatemala), 2111 (Peru), 2174 (Uruguay), 2179 (Guatemala), 2186 (China/Hong Kong Special Administrative Region), 2189 (China), 2200 (Turkey), 2203 (Guatemala), 2211 (Peru), 2233 (France), 2235 (Peru), 2239 (Colombia), 2240 (Argentina), 2241 (Guatemala), 2244 (Russian Federation), 2245 (Chile) and 2246 (Russian Federation). In Case No. 2197 relating to allegations concerning the South African Embassy in Ireland, the Committee is awaiting the comments of the Government of Ireland.

Partial information received from governments

6. In Cases Nos. 2087 (Uruguay), 2096 (Pakistan), 2153 (Algeria), 2164 (Morocco), 2172 (Chile), 2204 (Argentina), 2219 (Argentina), 2223 (Argentina), 2224 (Argentina) and 2258 (Cuba), the governments have sent partial information on the allegations made. The Committee requests all these governments to send the remaining information without delay so that it can examine these cases in full knowledge of the facts. The Committee also referred to the governments' observations in Case No. 2232 (Chile). In this respect, it requests the Government and the complainant to provide additional information so that the Committee may proceed with its examination in full knowledge of the facts.

Observations received from governments

7. As regards Cases Nos. 2046 (Colombia), 2201 (Ecuador), 2218 (Chile), 2221 (Argentina), 2227 (United States), 2234 (Mexico), 2238 (Zimbabwe), 2242 (Pakistan), 2247 (Mexico) and 2255 (Sri Lanka), the Committee has received the governments' observations and intends to examine the substance of these cases at its next meeting.

Urgent appeals

8. As regards Cases Nos. 2216 (Russian Federation), 2222 (Cambodia) and 2225 (Bosnia and Herzegovina), the Committee observes that despite the time which has elapsed since the submission of the complaints, it has not received the observations of the governments. The Committee draws the attention of the governments in question to the fact that, in accordance with the procedural rules set out in paragraph 17 of its 127th Report, approved by the Governing Body, it may present a report on the substance of these cases if their observations or information have not been received in due time. The Committee accordingly requests these governments to transmit or complete their observations or information as a matter of urgency.

Transmission of cases to the Committee of Experts

9. The Committee draws the legislative aspects of the following cases to the attention of the Committee of Experts on the Application of Conventions and Recommendations: Bahamas (Case No. 2127), Madagascar (Case No. 2132) and Russian Federation (Case No. 2199).

Serious and urgent cases which the Committee draws to the special attention of the Governing Body

10. The Committee considers it necessary to draw the Governing Body's special attention to Cases Nos. 1787 (Colombia) and 2090 (Belarus) because of the extreme seriousness and urgency of the matters dealt with therein. Furthermore, the Committee feels it necessary to draw the Governing Body's special attention to the total lack of cooperation demonstrated by the Russian Federation in respect of Cases Nos. 2185 and 2199.

* * *

11. The Committee expressed its concern over the fact that it has had to examine some cases without any government reply and the increasing number of incomplete replies from governments. The lack of thorough observations on their part in numerous cases does not allow the Committee to proceed with the examination of matters in full knowledge and obliges it to resort ever more frequently to the presentation of interim reports to the Governing Body. This situation results in an increase in the Committee's workload and delays in the adoption of definitive conclusions, thus impairing the proper functioning of the procedure. In these circumstances, the Committee would appeal to governments to ensure that their observations reply in a detailed and comprehensive manner to all of the allegations made by the complainants.

Effect given to the recommendations of the Committee of the Governing Body

Case No. 2156 (Brazil)

12. The Committee last examined this case, which concerns the murder of trade union leader Carlos Alberto Santos, at its November 2002 meeting [see 329th Report, paras. 16-18]. On that occasion, the Committee requested the Government to keep it informed of developments in the ongoing investigations.
13. In a communication dated 10 February 2003, the Government states that: (1) evidence gathered during the police investigation indicates that the crime was not related to the victim's trade union activities; and (2) the Comarca Criminal Court is awaiting final statements before giving a ruling on two persons charged with the crime.
14. *The Committee notes this information and requests the Government to supply the text of the final ruling handed down in this respect.*

Case No. 1955 (Colombia)

15. At its November 2002 meeting, the Committee formulated the following recommendations [see 329th Report, para. 399, clauses (a), (b) and (c)]:
 - the Committee: (1) expects that the judicial authorities will rapidly rule on the legal proceedings initiated by 16 trade union officials and workers affiliated to SINTRATELEFONOS who were dismissed by the enterprise ETB and requests the Government to send a copy of the judgements handed down; (2) in view of the fact that the legal proceedings concerning the dismissal of 16 trade union officials and workers of SINTRATELEFONOS have not been concluded after over four years, requests the Government to ensure the expedition of these proceedings so that a final decision is reached in the very near future, and if the judicial authority affirms that these dismissals were of an anti-union nature, to take immediate measures for the reinstatement of the dismissed without loss of wages; and (3) also asks the Government to take steps to ensure that the administrative inquiry initiated with respect to the dismissals of Martha Querales, Elías Quintana and Carlos Socha of the ETB is completed very soon and to send the corresponding results;
 - with regard to the judicial proceedings brought by the workers dismissed from the Engativa office in 1999, the Committee expresses the hope that these proceedings will be finalized in the very near future and requests the Government to keep it informed about the final result;
 - in respect of the recent alleged threats made by the United Self-Defence Forces of Colombia (a paramilitary group) against the members of the executive committee of the trade union organization SINTRATELEFONOS, and in particular the trade union officials Rafael Galvis, Sandra Cordero and Manuel Rodríguez, the Committee requests the Government promptly to take measures to provide protection to the threatened officials and to keep it informed in this respect.
16. In a communication dated 2 January 2003, the Government states, in relation to clause (a) of the Committee's recommendations, that the Political Constitution of Colombia establishes the three-way division of power (the executive, the legislature and the judiciary) and from this constitutional rule it can be deduced that the executive branch of public power cannot intervene in the functions which belong to the judicial branch, by requesting that proceedings initiated by trade union officials and members be expedited. It is not up to the Ministry of Labour and Social Security, nor the other bodies that form part of the Government, to take steps with regard to the immediate reinstatement of the

dismissed workers. It is up to the judicial authorities, at the request of those concerned, to try and to decide the requests for reinstatement. With regard to clause (b) of the Committee's recommendations, the Government states that the proceedings brought by the workers dismissed in 1999 are pending before the regular labour courts.

17. In a communication dated 15 January 2003, the Government states with regard to clause (c) of the Committee's recommendations, that it is currently taking all steps to provide rapid protection for the members of the executive committee of SINTRATELEFONOS.
18. *The Committee notes this information. The Committee deeply regrets that the legal proceedings relating to the alleged anti-union dismissals have already taken more than four-and-a-half years. The Committee notes that the Government indicates that as a result of the division of public powers it cannot request that the proceedings be expedited and that these are still pending. In this regard, the Committee recalls that on many occasions it emphasized that cases concerning anti-union discrimination contrary to Convention No. 98 should be examined rapidly, so that the necessary remedies can be really effective. An excessive delay in processing cases of anti-union discrimination, and in particular a lengthy delay in concluding the proceedings concerning the reinstatement of the trade union leaders dismissed by the enterprise, constitute a denial of justice and therefore a denial of the trade union rights of the persons concerned [see **Digest of decisions and principles of the Freedom of Association Committee**, 1996, 4th edition, para. 749]. In these circumstances, the Committee urges the Government to take steps immediately to ensure that the legal procedures relating to the alleged anti-union dismissals at the ETB enterprise of 16 trade union officials and workers affiliated to SINTRATELEFONOS, and those relating to the workers from the Engativa office, are finalized rapidly and that it ensure that these workers are reinstated in their jobs if the legal authorities decide that they were dismissed for anti-union reasons, or if their reinstatement is not possible, to ensure that they receive adequate compensation. Moreover, the Committee requests the Government to take steps without delay to finalize the administrative inquiry relating to the dismissal of Martha Querales, Elías Quintana and Carlos Socha of the ETB enterprise, which was initiated some time ago. The Committee requests the Government to keep it informed of developments in the legal and administrative proceedings relating to all the dismissed workers. More generally, the Committee requests the Government to take the necessary measures to ensure that procedures relating to protection against acts of anti-union discrimination are rapid and effective.*
19. *Finally, the Committee notes that the Government states that it is taking steps to protect the members of the executive committee of SINTRATELEFONOS and requests the Government to confirm that all persons concerned have been guaranteed adequate protection.*

Case No. 1962 (Colombia)

20. The Committee last examined this case at its November 2002 meeting [see 329th Report, paras. 400-417] and on that occasion it formulated the following recommendations:
- regarding the alleged attempt of the Mayor's office of the Municipality of Arauca to dismiss Antonio Marín Bravo, trade union official of SINTREMAR, the Committee requests the Government to keep it informed of the ruling adopted in the judicial proceedings concerning the lifting of the trade union immunity of this SINTREMAR official;
 - regarding the judicial proceedings concerning the dismissal of the trade union leader Gladis Correa Ojeda and the criminal proceedings concerning the trade union leader Juan Bautista Oyola Palomá which gave rise to his dismissal, the Committee expresses

the firm hope that the proceedings will be concluded shortly and requests the Government to inform it of the outcome thereof;

- regarding the mass dismissal and lifting of trade union immunity of the leaders of the Public Works Trade Union of Cúcuta so that they can be dismissed, the Committee urges the Government to take measures to ensure that an inquiry is conducted and, if it is concluded that the dismissals or the lifting of trade union immunity have been the result of their trade union activities, to take measures to ensure that the dismissed workers are reinstated in their jobs and that trade union immunity is restored. The Committee requests the Government to keep it informed in this respect;
- regarding the alleged political persecution of Fermín Vargas Buenaventura, a lawyer for the trade union, the Committee urges the Government to take the necessary measures to ensure that the competent authority launches an inquiry in this respect and to keep it informed of the outcome thereof;
- regarding the alleged dismissal of all the workers and members of the Public Servants and Employees' Trade Union of Pitalito-Huila by the Municipality of Pitalito, the Committee requests the Government to speed up the inquiry and that, if it is concluded that the dismissals occurred for anti-trade union reasons, it should take measures to ensure that the injured parties are reinstated in their jobs without loss of earnings. The Committee requests the Government to keep it informed in this respect.

21. In its communication of 2 January 2003, the Government states that the proceedings on the dismissal of trade union officials Antonio Marín Bravo and Gladis Correa Ojeda, and the criminal proceedings against Juan Bautista Oyola Palomá, are under way. With regard to the mass dismissal and lifting of trade union immunity of the leaders of the Public Works Trade Union of Cúcuta, the Government states that currently proceedings requesting the reinstatement of the trade union officials are before the ordinary labour court.
22. Finally, the Government states that with regard to the political persecution of Fermín Vargas Buenaventura, as already indicated in a previous reply, the Superior Council of the Judicature is the competent body to investigate complaints concerning lawyers and the exercise of the legal profession.
23. *The Committee notes this information. The Committee regrets that, despite the amount of time that has elapsed, the judicial proceedings under way on anti-union dismissals of trade union officials and/or the lifting of trade union immunity have still not been concluded. In these circumstances, the Committee urges the Government to take steps to ensure that the proceedings in question are finalized without delay and to keep it informed of the outcome of these proceedings.*
24. *With regard to the alleged political persecution of Fermín Vargas Buenaventura, a trade union lawyer, the Committee once again requests the Government to take steps to ensure that the relevant competent organization or institution carries out an inquiry in this respect.*
25. *Finally, regarding the alleged dismissal of all the workers and members of the Public Servants and Employees' Trade Union of Pitalito-Huila by the Municipality of Pitalito, the Committee urges the Government to speed up the inquiry that it says has begun and if it is concluded that the dismissals occurred for anti-union reasons, to take measures to ensure that the injured parties are reinstated in their jobs without loss of earnings. The Committee requests the Government to keep it informed in this respect.*

Case No. 2084 (Costa Rica)

26. At its meeting in November 2001, the Committee requested the Government to keep it informed of the final administrative decisions and judicial verdicts handed down in relation

to the case of trade union leader, Mario Alberto Zamora Cruz [see 326th Report, paras. 65 and 67], who had been dismissed.

27. In its communications of 14 January and 17 March 2003, the Government undertakes to communicate the rulings and decisions requested by the Committee. The Government explains in detail the status of the proceedings relating to his dismissal, in particular the proceedings in the Civil Service Tribunal (delayed as a result of the many appeals brought by the complainant; 14 of the 15 such appeals have been resolved). In addition, the Constitutional Division has rejected the complaint brought by Mr. Zamora against the Deputy Minister on the grounds that this is an allegation that can be dealt with through criminal law procedures; at the same time, the Attorney-General's Office has issued a statement that the management board of the institution where Mr. Zamora worked has no grounds for instituting criminal proceedings against him, and that only board members who considered their honour to have been impugned by Mr. Zamora's actions could bring private complaints and thus instigate criminal proceedings.
28. *The Committee notes this information, and requests the Government to transmit the ruling handed down by the Civil Service Tribunal on the dismissal of the trade union official, Mario Alberto Zamora Cruz.*

Case No. 2104 (Costa Rica)

29. At its meeting in November 2002, the Committee made the following recommendations on pending questions [see 329th Report, paras. 38-40]:
- The Committee notes with interest the Government's intention to adapt its legislation to the ILO standards relating to collective bargaining and the steps it has taken to do so, which include a constitutional reform (which has been submitted to the legislative plenary) and the submission of draft legislation for the ratification of Conventions Nos. 151 and 154. The Committee hopes that progress will be made in the near future and requests the Government to keep it informed in this respect.
 - With regard to the other two recommendations made at its previous meeting, the Committee notes that the Government has not sent the information requested of it and therefore the Committee repeats these requests, that the Government:
 - with regard to the matter of unfair labour practices at the University of Costa Rica noted by the administrative authorities, keep it informed of any appeal and any new decision;
 - keep it informed of the outcome of the complaint lodged by the administrative authorities to the courts after confirming that the Ministry of Education had committed violations in the matter of trade union leave.
 - Finally, the Committee requests the Government to send its observations on the dismissal of the trade union official, Mr. Luis Enrique Chacón.
30. In its communications of 14 January and 17 March 2003, the Government lists the many steps taken by the Ministry of Labour to ensure that the Legislative Assembly examines the draft legislation to ratify ILO Conventions Nos. 151 and 154 before the end of the period of extraordinary sessions (30 April 2003). Also, at the initiative of the Ministry of Labour, an official of the multidisciplinary advisory team provided technical assistance to the leaders of the various parties in the legislature in connection with these Conventions. These initiatives were all intended to guarantee collective bargaining in the public sector. In addition, the government party in the Legislative Assembly on 10 May 2002 submitted a proposal to amend article 192 of the Constitution, which was the result of dialogue between the authorities and the trade union confederations. With the same objective, the executive branch submitted to the Legislative Assembly amendments to the General Public

Administration Act, together with a draft law to introduce collective bargaining in the public sector which gives force of law to Decree No. 29576 of 31 May 2001. The draft law in question was the result of work done by a bipartite commission. The Government also refers to recent administrative rulings (which are binding) confirming the right of public servants to negotiate collective agreements.

31. The Government also states that the judicial proceedings in connection with violations (by the Ministry of Education) of trade union leave entitlements and unfair labour practices in the University of Costa Rica, as well as the proceedings in connection with the dismissal of trade union leader, Luis Enrique Chacón, have yet to be concluded.
32. *The Committee notes the Government's information on these proceedings, and requests the Government to supply copies of any rulings that may be handed down. The Committee notes with interest the various initiatives taken by the Ministry of Labour and other authorities (proposed constitutional and legislative amendments, etc.) with a view to guaranteeing full enjoyment of the right of collective bargaining in the public sector, including bills to ratify Conventions Nos. 151 and 154; and notes that an ILO official has provided technical assistance in one of these initiatives. The Committee requests the Government to keep it informed of developments with regard to these issues.*

Case No. 2158 (India)

33. The Committee examined this case at its meeting in March 2003 and made the following recommendations on the allegations that remained pending [see 330th Report, para. 854]:
 - (a) The Committee requests the Government to provide information as to the nature of the three charges brought against the leader of the complainant organization and the outcome of the proceedings pending before the Jangipur Court.
 - (b) With regard to the six workers of the Pataka Biri Co. Ltd. who were dismissed in 1998:
 - the Committee takes note of the reinstatement of one worker pursuant to a finding that his dismissal was on anti-union grounds;
 - the Committee requests the Government to take all necessary measures as soon as possible to have the case of two dismissed apprentices examined as to its substance, and if dismissals are found to be on anti-union grounds, to ensure that these workers are reinstated in their jobs without loss of pay and to guarantee the application against the enterprise of corresponding legal sanctions. The Committee requests to be kept informed in this respect;
 - the Committee notes that two appeals were rejected by reason of disciplinary offences and requests the Government to transmit the text of the judgment delivered, together with the grounds adduced therefore.
 - (c) With regard to the dismissal of nine workers only 45 days after requesting the enforcement of a ten-point list of demands, the Committee requests the Government to take all necessary measures as soon as possible with a view to the rapid conclusion of the proceedings pending before the Calcutta High Court and if the anti-union nature of the dismissals is confirmed, to rapidly take the necessary measures to ensure that these workers are reinstated in their jobs, without loss of pay, and that the enterprise faces the corresponding legal sanctions. The Committee requests to be kept informed in this respect.
 - (d) The Committee requests the Government to take all necessary measures as soon as possible to ensure that all other allegations concerning acts of anti-union discrimination and intimidation, including the imprisonment of the trade union leader for a second time, the retrenchment of eight workers, threats, harassment and pressure to quit the union, are investigated by a high-ranking independent body which, in addition to being speedy and impartial, is also seen to be such by the parties concerned, and under guarantees which

enable the parties to participate in the procedure in an appropriate and constructive manner. The Committee requests to be kept informed in this respect.

34. In its response provided on 27 March 2003, the Government states that the leader of the complainant organization, Ashique Hossain, was murdered on 25 June 2002 and that the case is under investigation. With regard to the three charges previously brought against the late Ashique Hossain, the Government states that he was accused of attempted robbery and criminal breach of trust, on the basis of complaints lodged by his wife on 28 March 2000, and for rape, on the basis of complaints lodged by a female person on 14 April 2000. He was arrested the same day and was released on bail after 72 days of custody. Finally, the late Ashique Hossain and eight other persons were accused of criminal conspiracy/promotion of enmity between different groups on grounds of religion, race etc./sale etc. of obscene books, on the basis of complaints lodged by the General Manager of Pataka Beedi Co. on 12 December 2001. More specifically, on that day, while prayer was going on near the office building of Pataka Beedi Co., the late Ashique Hossain and his supporters raised slogans against the owners of the company, inciting communal disharmony between Hindu and Muslim workers of the company. On the basis of this complaint, the late Ashique Hossain was arrested for a second time along with another person and was released on bail the same day.
35. The Government also states that one of the most senior Additional Labour Commissioners was deputed to Murshidabad to gather facts and to look into the grievances of the workers promptly and in an impartial manner and to initiate immediate measures to safeguard the rights of trade unions. He held one round of discussions in Berhampore on 28 February 2003. Moreover, the Labour Commissioner, Government of West Bengal, will be closely monitoring further developments.
36. In addition to this, the Deputy Labour Commissioner, Murshidabad, has been directed to examine the circumstances of the dismissal of two apprentices and in case it appears that they were based on anti-union grounds, to take steps so that these workers are reinstated forthwith.
37. Finally, the Government states that the proceedings in the case of nine dismissed workers are still pending before the Calcutta High Court and that a senior officer of the Labour Directorate has been entrusted with the responsibility of taking all possible steps to expedite the case.
38. *The Committee deplores the murder of the leader of the complainant organization, Ashique Hossain, and the fact that this murder was communicated by the Government with considerable delay. The Committee emphasizes that the killing, disappearance or serious injury of trade union leaders and trade unionists requires the institution of independent judicial inquiries in order to shed full light, at the earliest date, on the facts and the circumstances in which such actions occurred and in this way, to the extent possible, determine where responsibilities lie, punish the guilty parties and prevent the repetition of similar events [Digest of decisions and principles of the Freedom of Association Committee, 4th edition, 1996, para. 51]. The Committee urges the Government to institute an independent judicial inquiry in order to shed full light on the facts and the circumstances in which the murder of trade union leader Ashique Hossain occurred, determine where responsibilities lie and punish the guilty parties, and to keep it informed in this respect. The Committee also requests the Government to provide information on the actual situation of the complainant organization.*
39. *The Committee notes that most of the charges brought against Ashique Hossain were not related to trade union activities. The Committee notes, however, that the latest charge was based on a complaint filed by the General Manager of Pataka Beedi Co. against Ashique*

Hossain and eight other persons. The Committee requests the Government to indicate whether proceedings have been initiated against the eight persons who were accused along with Ashique Hossain and if this is the case, to keep it informed of developments in this case and provide it with a copy of the court ruling as soon as it becomes available.

40. *The Committee notes the Government's statement that under the supervision of the Labour Commissioner, Government of West Bengal, a senior public official has undertaken an impartial investigation and held one round of discussions on the allegations contained in the complaint. However, the Government does not inform the Committee of the result of such discussions. The Committee hopes that the investigation of allegations of serious acts of anti-union discrimination, including threats of damaging the union office and harassment and pressure on members to quit the union, will be concluded in the shortest possible time. The Committee requests the Government to keep it informed of the progress of the investigation and to transmit a copy of the report once it is adopted.*
41. *The Committee notes the Government's statement that it will examine the circumstances under which two apprentices were dismissed and, if it is found that the dismissals were based on anti-union grounds, will take steps to reinstate the workers. The Committee requests the Government to ensure that the investigation of this issue is concluded in the shortest possible time and to keep it informed of developments.*
42. *With respect to the case of nine workers who were dismissed only 45 days after requesting the enforcement of a list of demands, the Committee observes that the proceedings are still pending before the Calcutta High Court and that a senior officer of the Labour Directorate has been entrusted with taking all possible steps to expedite the case. The Committee requests the Government to keep it informed of the progress of the proceedings before the Calcutta High Court and if the anti-union nature of the dismissals is confirmed, to rapidly take all necessary measures to ensure that these workers are reinstated in their jobs, without loss of pay, and that the enterprise fully conforms with the court judgement rendered, including all remedies that may be imposed.*

Case No. 2116 (Indonesia)

43. *The Committee last examined this case at its meeting in June 2002 [see 328th Report, paras. 325-370]. Since that time, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) indicated its desire to formally withdraw this case in a letter dated 20 May 2003, in the light of an agreement signed between the workers' representatives of the SPMS and the management of the Shangri-La Hotel. The IUF expressed its appreciation for the excellent work done by the Committee on Freedom of Association and the International Labour Office in relation to the complaint.*
44. *The Committee takes note of this information.*

Case No. 1991 (Japan)

45. *The Committee last examined this case concerning allegations of anti-union discrimination arising out of the privatization of the Japanese National Railways (JNR) which were taken over by the Japan Railway companies (JRs) at its March 2002 meeting. The Committee expressed its regret that no real progress had been made, since all the parties had accepted the Four-Party Agreement in May 2000. The Committee urged all parties concerned, to start without delay, serious and meaningful negotiations towards a rapid satisfactory solution, which would ensure that the dismissed workers would be fairly compensated [see 327th Report, paras. 70-73].*

46. In a communication dated 5 November 2002, KENKORO-TETSUDOHONBU (formerly ZENDORO, one of the initial complainants) mentions that on 24 October 2002 the Tokyo High Court issued a decision dismissing the appeal it had filed against the Tokyo District Court of 29 March 2000. The complainant states that for the first time, the Tokyo High Court has acknowledged the responsibility of the JRs as “employers” and recognized that the opposition of ZENDORO and of its members to the privatization plans was taken into account and given a considerable weight in the evaluation of workers to be recruited in the new companies; ZENDORO members were thus given low ratings, which resulted in significant disparities in the hiring rates of workers by union affiliation. However, the High Court concluded at the same time that this prejudicial treatment did not constitute an unfair labour practice, which the complainant considers as contrary to Article 1(2)(b) of Convention No. 98 and Article 2 of Convention No. 87. The complainant further states that this disregards the repeated commitments by representatives of the Government and the JNR that there would be no discrimination based on union membership or activities when selecting workers for the new company. KENKORO-TETSUDOHONBU will appeal the Tokyo High Court decision to the Supreme Court. It recalls that more than 12 years have elapsed since ZENDORO members were dismissed by JNR, and that two of the 62 workers concerned have already passed away, which makes an urgent solution ever more necessary. In a further communication of 13 February 2003, KENKORO states that the Government has adopted a wait-and-see attitude and that the lack of serious and meaningful consultations by the Government and the JRs is a major obstacle in the solution of the problem of the non-hiring of its members.
47. In a communication dated 25 December 2002, the National Railway Workers’ Union (KOKURO) indicates that the Four-Party Agreement was annulled on 6 December 2002, as the three ruling parties withdrew unilaterally from it. KOKURO had initially accepted the agreement and the major concessions it entailed, since it was convinced that an early settlement was desirable to provide relief for dismissed workers; KOKURO acknowledges however that a number of its members were opposed to that reversal of policy, and still wanted to pursue the legal responsibility of the JRs. According to KOKURO, the ruling parties had never started their actual settlement work, using as an excuse the existence of a minority opinion in the union. KOKURO still hopes for a negotiated settlement with the JRs and the Government, including at political level if necessary. KOKURO adds that more than 16 years have elapsed since the privatization of JNR, that it was nearly 14 years ago that Labour Commissions issued relief orders in favour of its discriminated members, that 26 of its affected members have already died and that a significant number of the 1,047 KOKURO members affected have passed the retirement age in the JRs. Additional delays will limit the effectiveness of any relief measures that could be decided. In a further communication of 25 February 2003, KOKURO criticizes the High Court judgement which it says contradicts the spirit of the Committee’s recommendations and creates another obstacle to bringing about a satisfactory solution for the parties.
48. In its communication of 28 October 2002, the Government states that the ruling parties considered that the contradictions within KOKURO prevented the possibility of moving forward in the implementation of the Four-Party Agreement and requested that KOKURO resolved these contradictions and have the result accepted by all its members before proceeding any further, failing which they would withdraw from the agreement. While KOKURO adopted some “guidelines” in this respect at its extraordinary (69th) convention on 27 May 2002, internal dissensions remained since, inter alia, some 280 members refused to withdraw their lawsuits against JNR. For its part, the Government believed that the only way left to solve the issue was a political settlement, from a humanitarian point of view. Between April and September 2002, it held 34 meetings with political parties and six meetings with KOKURO, to try to resolve the issues.

49. In its communication of 6 January 2003, the Government mentions that KOKURO held another national (70th) convention in November 2002, where the focus was whether KOKURO could implement the guideline adopted at the earlier convention. However, the outcome of the 70th convention was another guideline which, according to the Government, represented a step back from the previous one. The ruling parties considered that this was unacceptable and that KOKURO had in fact rejected a political solution based on the Four-Party Agreement. Consequently, they decided on 6 December 2002 to abandon that solution, thus annulling the Four-Party Agreement. Since January 2001, the Government met 79 times with political parties, 26 times with KOKURO and four times with the JRs. It considers that it has done all it could do concerning the non-recruitment of the former JNR personnel. As matters stand, there have been no developments concerning the non-recruitment of KOKURO members since the matter is still being litigated in the Supreme Court; as regards the non-recruitment of KENKORO members, the Tokyo High Court dismissed the trade union appeal by concluding that there had been no unfair labour practices in the hiring procedure.
50. In its communication of 10 April 2003, the Government states that ZENDORO's interpretation of the Tokyo High Court ruling is so simplified as to be misleading. According to the Government, the court held that while ZENDORO members were assessed disadvantageously as to whether or not they were suitable as personnel for the new companies (their staunch opposition to the privatization being taken into account in that respect, as well as their numerous actions in violation of workshop rules, including illegal strikes) it decided that this did not constitute an unfair labour practice. The Tokyo High Court ruling stated that the relevant ZENDORO members were not hired, not because they were members of ZENDORO or for carrying out legal activities as union members, but because they repeatedly engaged in acts against workshop rules including illegal strikes against the JNR privatization and division. These series of acts were taken into account in the hiring process. The Government recalls that there were 17 lawsuits before the Tokyo District Court altogether (16 by KOKURO, one by ZENDORO); the Tokyo High Court has dismissed 15 of the 16 cases appealed, except the ZENDORO appeal mentioned above, where it acknowledged that the JRs had a responsibility as employers but that there were no unfair labour practices. At present, 14 of these cases are pending before the Supreme Court.
51. In the same communication, the Government summarizes the situation and the efforts made at all stages of the reform:
- the initial JNR reform called for drastic lay-offs (from 277,000 to 215,000 employees); however, these staff reductions were uneven among regions (one in two employees would be excess in Hokkaido; one in three in Kyushu; one in six in Honshu), coupled with unequal re-employment opportunities in the different regions. To remedy this imbalance, the JNR implemented interregional transfers from 1986, but those who accepted the transfers were mostly TETSURO and DORO members;
 - the Settlement Corporation made every effort to secure employment for the 7,628 former JNR staff who were not re-employed when the JRs started their operations in April 1987. As a result, 6,581 persons found employment and the other 1,047 refused the Corporation's offer. The then Ministry of Transport put additional pressure on the JRs to rehire employees. However, because KOKURO and KENKORO insisted on re-employment by their local JRs, the number of employees who applied was lower than expected; ultimately, only 1,606 returned to the JRs as part of the additional hiring opportunities;

- in 1992, the Central Labour Relations Commission (CLRC) offered a settlement plan to KOKURO, KENKORO and the JRs. The companies stated that they would examine the plan; the trade unions ignored it;
- additional efforts were made towards a political settlement, including the Four-Party Agreement, whose acceptance was recommended by the Freedom of Association Committee, but which was unsuccessful due to the trade unions' inability to agree, as explained above (internal dissensions within KOKURO; outright rejection by KENKORO).

52. To summarize, the measures for redundant employees was considered one of the most important issues throughout the JNR reform. Out of the 277,000 JNR personnel, about 66,000 chose voluntary retirement or transfer to the public sector. After the reform, for the some 7,600 persons still unemployed, the JNR Settlement Corporation set up a three-year employment measures period with guaranteed salary, training and vocational guidance; as a result, about 6,600 found re-employment. During this period, the JRs hired another 1,606 employees. The 1,047 employees left are KOKURO and KENKORO members who have been insisting on employment by their local JRs, and did not accept the offers made during the three-year employment measures period. These unions have also rejected the offer at the political level on humanitarian grounds. Pushing now for additional measures in favour of these employees would be unfair for the vast majority of employees who have accepted compromises during the reform, and who consider the issue as settled.

53. *The Committee notes with concern that there could be no agreement on the implementation of the May 2000 Four-Party Agreement. Without attempting to apportion responsibilities for that failure, the Committee recalls that, at its November 2000 session, it had urged the parties to accept this agreement, as it considered that it “offers a real possibility of speedily resolving the issue of non-hiring by the JRs” [see 323rd Report, para. 376]. The Committee notes that the Tokyo High Court ruled for the first time in its October 2002 decision that the JRs had a responsibility as employers and that KOKURO's and KENKORO's opposition to the privatization plan was indeed a factor in the rehiring decisions, although the court stated that this did not constitute unfair labour practices. The Committee emphasizes that the issues at hand are very serious ones in terms of freedom of association principles, i.e. preferential treatment at hiring, and should be addressed by the Government. While noting the numerous efforts made in various fora at all stages of the reform process, the Committee urges the Government and the parties concerned to pursue their efforts towards finding a fair solution, acceptable to the largest possible number of workers; this is becoming increasingly urgent, given that the events date as far back as 1987, and taking into account the indications provided on the numbers of affected workers who have already died or have passed retirement age, which will make whatever solution ultimately found increasingly illusory. The Committee also requests the Government to provide it with a copy of the decisions of the Supreme Court concerning the members of KOKURO and KENKORO.*

Case No. 2175 (Morocco)

54. The Committee last examined this case at its November 2002 meeting [see 329th Report, paras. 688-697]. On that occasion, the Committee requested the Government to indicate whether, following the communication of the Banks' National Trade Union (SNB/CDT) of 8 April 2002, the Professional Association of Moroccan Banks (GPBM) had accepted the adherence of this trade union to the collective labour agreement governing working relations in the banking sector, and if the negotiations between the parties involved had begun. Should this not be the case, the Committee requested the Government to take all necessary steps to ensure that acceptance of the trade union's adherence and the opening of

negotiations between the parties involved took place without delay. The Committee requested the Government to keep it informed in this respect.

- 55.** In a communication dated 28 January 2003, the Government states that the SNB/CDT has adhered to the collective labour agreement governing working relations in the banking sector. The Government states that the SNB/CDT, having respected the procedure laid down in article 11 of the Dahir of 17 April 1957 on the collective labour agreement, is legally considered to be party to the agreement and thereby becomes a negotiating party within the banking sector; the Government attached to its communication a copy of the notifications sent by the SNB/CDT in this respect. The Government states that the SNB/CDT has the same rights and obligations as the other signatories to the agreement. Finally, the Government indicates that the Ministry of Employment has taken the necessary steps with the CGEM and the GPBM to re-establish social relations.
- 56.** In a communication dated 27 February 2003, the Democratic Labour Confederation of Morocco (CDT) informs the Committee that the GPBM continues to ignore and exclude the SNB/CDT from all negotiations and dialogue. In reply, in a communication of 8 April 2003, the Government states that it brought the matter to the president of the Professional Association of Moroccan Banks on three occasions, without success. The president of the General Confederation of Moroccan Enterprises was also called upon to intervene with the GPBM. The Committee considers that these steps demonstrate its good will in order to establish a permanent and constructive dialogue between the parties concerned. The Government finally asks the Committee to conclude that the complaint should have been oriented against the GPBM and not the Government.
- 57.** *The Committee notes with interest the information provided by the Government concerning the steps which have been taken in order to establish a dialogue between the GPBM and the SNB/CDT. It thus recalls that the issue involved not only information with regard to whether the adherence of the SNB/CDT to the collective labour agreement was legally valid but also whether the GPBM had followed up on this adherence and, in particular, whether negotiations had begun with the SNB/CDT. In this respect, the Committee notes that the Government's initiatives have not produced any results until today. In these circumstances, recalling that governments are bound to ensure that the provisions of Conventions which have been freely ratified are respected in law and in practice throughout their territory, the Committee requests the Government to continue to take steps in order to ensure that negotiations between the SNB/CDT and the GPBM take place without delay. It requests the Government to keep it informed in this respect.*

Case No. 2113 (Mauritania)

- 58.** During its previous examination of this case [see 330th Report, paras. 129-131], the Committee requested the Government to keep it informed of the outcome of the investigations under way into the alleged arrest of trade union leaders following a fishermen's protest march.
- 59.** In a communication dated 10 April 2003, the Government states that the outcome of the investigations carried out by the competent authorities advises that no trade union leaders of the National Fisheries Federation were arrested or questioned.
- 60.** *The Committee takes note of the information provided by the Government.*

Case No. 1996 (Uganda)

61. The Committee last examined this case at its November 2001 meeting, where it requested the Government to keep it informed of developments concerning the recognition of the Uganda Textile, Garments, Leather and Allied Workers' Union (UTGLAWU) at the Nytil Picfare company, later taken over by Southern Range Nyanza Ltd. The Committee also requested information about various legal proceedings filed by UTGLAWU against a number of companies to obtain recognition for collective bargaining purposes. Finally, the Committee had requested the Government to keep it informed of any progress made in the adoption of two draft bills which would amend provisions of the Trade Unions Decree inconsistent with freedom of association principles [see 326th Report, paras. 115-119].
62. In a communication of 24 January 2003, the Government indicates that the matter of recognition is being pursued afresh with the new management, which is agreeable to negotiations. The parties have held one meeting and another one is planned; the parties are still negotiating. It is hoped that the negotiations will be fruitful in solving this long-standing matter, failing which the Government will take appropriate action.
63. *The Committee notes this information. Recalling that this matter has been pending since 1998, the Committee requests the Government to speed up the process and to keep it informed of any progress achieved concerning the recognition of UTGLAWU by Southern Range Nyanza Ltd. Noting that the Government has not provided information on the other legal proceedings filed by UTGLAWU, nor on the adoption of two draft bills (elaborated with ILO technical assistance) amending provisions of the Trade Unions Decree inconsistent with freedom of association principles, the Committee requests once again the Government to provide such information in the near future.*

Case No. 2098 (Peru)

64. The Committee last examined this case at its meeting in November 2002 [see 329th Report, paras. 123-126]. On that occasion, it requested the Government: (1) to keep it informed of any legal proceedings connected with the dismissals of the union official Hipólito Luna Melgarejo (of the trade union of the Agroindustrial San Jacinto SA enterprise) and of the Secretary-General and six leaders of the Single Trade Union of Workers of the Agroindustrial Laredo SA enterprise; (2) to investigate without delay the dismissals of Carlos Alberto Paico and Alfredo Guillermo de la Cruz Barrientos (members of the Board of the Trade Union of Workers of the Industrial Nuevo Mundo Company) and of that union's members and former leaders, Alfonso Terrones Rojas and Zósimo Riveros Villa, and, if it were found that they were dismissed because of their trade union activities, to take measures to ensure their reinstatement in their posts; and (3) with regard to the need to amend legislation with a view to reducing the number of workers required by law to constitute non-enterprise trade unions, to keep it informed of progress made with the proposed law to amend the Collective Labour Relations Act which would set at 20 the minimum number of workers in an enterprise trade union and 50 for other types of union.
65. In a communication dated 1 January 2003, the Government states that: (1) the Congress has passed Act No. 27912 amending the Collective Labour Relations Act, and that the Act in question amends section 14, among others, of Act No. 25593, by specifying that in order to be established and remain in existence, trade unions must have at least 20 members at the enterprise level or 50 at some other level; and (2) there are no judicial proceedings under way in relation to the dismissals of Hipólito Luna Melgarejo and the other officials of the Single Trade Union of Workers of the Agroindustrial Laredo SA enterprise.
66. *The Committee notes with satisfaction the information concerning the amendment to the Collective Labour Relations Act, which refers to the minimum number of workers required*

to set up enterprise trade unions or other types of trade union. The Committee once again requests the Government to take steps to investigate the dismissals of Carlos Alberto Paico and Alfredo Guillermo de la Cruz Barrientos (members of the Board of the Trade Union of Workers of the Industrial Nuevo Mundo Company) and of union members and former leaders of that union, Alfonso Terrones Rojas and Zósimo Riveros Villa, and, if it finds that they were dismissed because of their trade union activities, to take measures to ensure their reinstatement in their posts. The Committee requests the Government to keep it informed in this regard.

Case No. 1581 (Thailand)

67. The Committee last examined this case at its November 2002 meeting when it regretted that no progress had been made in respect of its previous recommendations on the conformity of the State Enterprise Labour Relations Act (SELRA) with the principles of freedom of association. The Committee therefore urged the Government to take the necessary measures to amend the act in order to bring it fully into conformity with these principles and to keep it informed of any developments in this regard [see 329th Report, paras. 136-138]. The examination of the Committee relates also to the amendments of the Labour Relations Act which applies to the private sector. When it last examined this particular aspect, the Committee requested the Government to send a copy of the draft Labour Relations Act as soon as the Council of State had finished its reading thereof [see 325th Report, para. 84].
68. In a communication, dated 20 March 2003, the Government submits information on the Labour Relations Act. It first recalls the key issues of the Act to be amended and which were already noted by the Committee in one of its previous examinations [see 323rd Report, para. 89]. The Government then proceeds to give a detailed chronology of the revision process implemented in relation to the Act, and which can be summarized as follows. It should first be recalled that the Committee had already been informed of the transmission to the Council of State of the draft amendment to the Labour Relations Act and of the submission of suggestions by the main employers' and workers' organizations. According to the Government, upon reception of the amendment, the Office of the State Council submitted it to the Second Committee of the State Councillors for scrutiny. The process began on 22 July 1999. The Government indicates that, on 4 July 2000, the President of the Labour Congress of Thailand (LT) and 50 workers coming from 26 labour organizations, wrote a letter to the Prime Minister to oppose the draft amendment. On 26 February 2001, the opinion of the Minister of Labour and Social Welfare (MOLSW) was sought by the secretariat of the cabinet as to whether the Minister deemed it fit to continue the scrutiny of the amendment by the State Council. The Minister, in a letter of 29 March 2001, eventually informed the Office of the State Council that it should pursue its scrutiny of the amendment. To enhance the consultation of the interested parties on the amendment, a seminar was organized by the Office of the State Council. During the seminar, employers' and workers' organizations proposed additional amendments, which were transmitted by the MOLSW to the State Council so that it could take them into account. The amendment to the Labour Relations Act is still under review by the Ninth Committee of the State Councillors to which the Office of the State Council has now referred it.
69. *The Committee takes note of this information. It regrets that the Government has not given any information on the measures it was requested to take by the Committee to amend the SELRA to bring it into full conformity with the principles of freedom of association. The Committee would like to recall that it had expressed concern over the maintenance by the Act of a situation of trade union monopoly in state enterprises, broad powers granted to the Registrar to oversee certain internal affairs of the trade union, a general prohibition of strikes and severe penalties for strike action, even when peaceful [see 327th Report*

paras. 109-111]. The Committee trusts that the Government has taken the necessary steps to give effect to the recommendation of the Committee and requests the Government to keep it informed in this regard. Finally, the Committee requests the Government once again to send a copy of the latest version of the amendment to the Labour Relations Act so that it may assess its contents in the light of the principles on freedom of association.

Case No. 2125 (Thailand)

- 70.** At its March 2002 meeting, the Committee examined this case, which relates to the dismissals of 21 employees of ITV-Shin Corporation, all of whom were either members or elected union officials of the ITV Labour Union. In its conclusions, recalling that the Government is responsible for preventing all acts of anti-union discrimination, the Committee requested the Government to take steps to ensure the reinstatement of the 21 dismissed members and officials of the ITV Labour Union in their jobs with the payment of back wages. The Committee also requested the Government to keep it informed of the outcome of the judgement of the Central Labour Court over the dismissals of the 21 ITV Labour Union members and officials. In this respect, it should be recalled that, following a complaint filed by the ITV Labour Union before the tripartite Labour Relations Committee LCR, in a decision of 20 June 2001, the LCR unanimously ordered the reinstatement of the 21 dismissed ITV union officials and members. The ITV appealed this decision to the Central Labour Court.
- 71.** In a communication of 9 December 2002, the complainant sent certain follow-up information. In this communication, the complainant indicated that the Central Labour Court, in a decision of 26 October 2002, ruled in favour of the 21 dismissed employees and ordered their immediate reinstatement. The ITV appealed this decision to the Supreme Court of Thailand. The complainant adds that the ITV has appointed a senator to represent its interests before the Supreme Court. This senator is also a prominent lawyer and a member of the Committee on Justice and Human Rights of the Parliament. In the complainant's view, this appointment raised a question of conflict of interests. The Government sent two communications following the conclusions of the Committee. In a first communication of 7 October 2002, it confirmed that the dismissal of the 21 employees of ITV-Shin Corporation was still *sub judice* before the Central Labour Court. In a second communication of 20 March 2003, the Government confirmed that the Central Labour Court eventually decided that there were no reasonable grounds on which it could revoke the decision of the LCR. Since ITV filed an appeal with the Supreme Court of Thailand against the ruling of the Central Labour Court, the Government states that the case is *sub judice*.
- 72.** *The Committee takes note of this information and in particular of the fact that the Central Labour Court confirmed the unanimous decision of the tripartite Labour Relations Committee that the dismissal of the 21 employees, members and officials of the ITV Labour Union, was illegal and that they should all be reinstated. While the Committee notes that the case is now before the Supreme Court of Thailand, it would like to underline that in its original conclusions it specifically requested the Government to take steps to ensure the reinstatement of the 21 employees. In other words, the Government was requested not only to keep the Committee informed of the outcome of the national judicial procedure, but also to take active steps to ensure the 21 employees' reinstatement, in particular to avoid that recourse to national jurisdictions by ITV prolongs unduly the effects of the anti-union discrimination it had exerted on these employees. In these circumstances, the Committee urges the Government to take the necessary steps to ensure the reinstatement of the 21 dismissed union members and officials, to keep it informed thereof as well of the outcome of the procedure before the Supreme Court of Thailand.*

Case No. 2181 (Thailand)

73. At its November 2002 meeting, the Committee examined this case which relates to the automatic dissolution of the Bangchak Petroleum Public Co. Ltd. Employees' Union (BCPEU) – the complainant organization – as a result of purported change of status of a state-owned oil company, the Bangchak Petroleum Public Co. Ltd. In its conclusions, the Committee requested the Government, first to take appropriate measures so that the legal personality and registration of BCPEU be restored immediately. Second, it requested the Government to clarify the status, public or private, of the Bangchak Petroleum Public Co. Ltd. and to provide updated information on the trade union and collective bargaining situation in the company; the request for information on the second issue was also addressed to the complainant organization. Finally, the Committee requested the Government to take appropriate measures so that this situation would not arise again in the future [see 329th Report, paras. 757-764].
74. The Government sent a communication dated 20 March 2003 to the Committee following its conclusions. In this document, the Government confines itself to repeating the information transmitted in its reply to the complaint and which has already been examined by the Committee.
75. In a communication of 3 April 2003, the complainant sends additional information on the status of the Bangchak Petroleum Public Co. Ltd. and its implications for the BCPEU. In an earlier communication, examined by the Committee, the complainant had indicated that, following a complaint it had lodged, the Subcommittee on Grievances of the Committee on Labour and Social Welfare of the Parliament had ruled that the change in shareholders at the company did not impact on its status as a state enterprise; therefore, there should be no change in BCPEU status as a state enterprise union. In its last communication the BCPEU informs the Committee that this conclusion has been confirmed by another subcommittee (the Subcommittee on Labour Laws Revision) of the Committee on Labour and Social Welfare; a translation into English of the findings of the Subcommittee on Labour Laws Revision is attached to the communication. The Subcommittee on Labour Laws Revision also found that the Director-General of the Department of Labour Protection and Welfare had carried out his duty in accordance with the laws, in relation to the cancellation of the registration of the BCPEU. The complainant has also attached a letter sent to the Ministry of Labour from the State Enterprise Workers' Relations Confederation (SERC) and the response dated 25 February 2003 of the Director-General of the Department of Labour Protection and Welfare. The response recalls the conclusions of the Council of State that the Bangchak Petroleum Public Co. Ltd. was no longer covered by the State Enterprise Labour Relations Act of 2000 (SELRA) and that, as a result, the BCPEU was henceforth covered in particular by the Labour Relations Act of 1975. Treating the BCPEU differently from other unions registered under the Labour Relations Act would adversely affect the rights of these unions. The SERC raised the matter with the Prime Minister whose response is still awaited. Finally, the complainant indicates that the Bangchak Petroleum Public Co. Ltd. is presented as an agency "attached to the Ministry of Energy", on the Ministry's web site.
76. *The Committee regrets that the Government has not submitted the information requested. The Committee recalls that it found that the administrative dissolution of BCPEU and the automatic revocation of its registration and legal personality infringed a number of principles of freedom of association. This is the reason why the Committee requested the restoration of the union's legal personality and registration whatever the change of company status may have been; in this respect the Committee notes that the question of the status of the company remains unclear. Further, in taking note of the registration of a new union led by another president, the Committee requested information on the situation of*

trade union and collective bargaining rights in the company, in particular to clarify the consequences of this registration in terms of preferential bargaining rights.

77. *In these circumstances, the Committee trusts that the Government will take the necessary measures so that the legal personality and registration of BCPEU be restored. It requests the Government to keep it informed in this respect as well as to submit the information on the trade union and collective bargaining rights in the company. In this last respect, the Committee points out that its request was also directed at the complainant organization.*

Case No. 1952 (Venezuela)

78. At its meeting of March 2002, the Committee formulated the following recommendations on the outstanding questions [see 327th Report, paras. 127-129]:

- The Committee deplores the fact that, according to the Government's indication, the officers and members of SINPROBOM have not yet obtained the lost wages corresponding to the period when they were dismissed (since 1997). The Committee notes with concern that the employer has appealed against the reinstatement of the trade union officers and the payment of their wages. The Committee insists that the Government ensure that these wages are paid and that the employment relationship of these officers and members affiliated to SINPROBOM [Glácido Gutiérrez, Rubén Gutiérrez, Tomás Arancibia and Juan Bautista Medina] continues. It requests the Government to keep it informed of all court judgements in this respect.
- The Committee notes the Government's statement concerning the draft decrees on the exercise of the function of firefighters' brigades and, more specifically, that it will ensure that the drafts are drawn up in a manner not to restrict freedom of association. The Committee would nevertheless point out with deep concern that the draft transmitted by the complainant provides for the dissolution of the firefighters' trade union and the creation of an association controlled by the employers' representatives. In these circumstances, the Committee recalls its previous recommendation requesting the Government to take the necessary measures to guarantee in law and in practice the right of firefighters to organize and to bargain collectively [see 310th Report, Case No. 1952, para. 608]. The Committee urges the Government to keep it informed of the evolution of the situation.
- The Committee further requests the Government to reply in detail to the following allegations:
 - the anti-union campaign to hinder the right of the firefighters of the Eastern Fire Brigade, the Fire Brigade of Guacara, San Joaquín and Mariara, and the Municipal Autonomous Fire Brigade Institute of Valencia to join the workers' organization of their own free choice;
 - the dismissal of a member of the executive committee of the union of the Fire Brigade of Valencia (Emerson Ochoa) and the regular transfer of trade union leaders for anti-union motives; and
 - the campaign of harassment and vilification in respect of the Fire Brigade of Yaracuy and the promulgation of the Act of December 2001 which excludes firefighters from the right to organize and to bargain collectively.

79. In a communication of 8 May 2002, the Trade Union Association of Professional Firefighters, Auxiliaries and Others of the Federal District and the State of Miranda (SINPROBOM) and in a communication of September 2002, the National Trade Union Association of Professional Firefighters, Auxiliaries and Related Workers of Venezuela (ASINBOMPROVEN), a new organization resulting from the merger of various organizations including SINPROBOM, provide new information of which the following should be highlighted:

- signatures were collected by the employer’s legal representatives with the object of forcing officers belonging to the Caracas Fire Brigade to reject the trade union organization. The signatures were formally handed to the metropolitan mayor of Caracas by the Commander-in-Chief of the Fire Brigade;
- “black lists” are being drawn up to identify trade union leaders and prevent them from freely acting as trade union representatives, as well as to harass them and prevent them from entering the various places of work;
- trade union leave, granted through collective bargaining, as well as by the current regulations under the Administrative Service Act is being suspended, thus allowing members of the trade union’s national executive committee to be transferred; as a result, this situation hinders the free exercise of trade union activities;
- there are requests to vacate trade union premises, and prohibitions on holding meetings of any kind with members, with the object of preventing the distribution of information on the implementation of trade union strategies and plans;
- after being notified of the registration of the new trade union organization (ASINBOMPROVEN), the Caracas Metropolitan District Fire Brigade ordered the transfer of the trade union official, Luis Rodríguez Herrera, the union’s culture and training secretary. Subsequently, the authorities forced this official to take compulsory retirement;
- there is a breach of collective agreements and the acquired rights of all firefighters and, especially, reduction in wages of the administrative personnel of the former Eastern Fire Brigade;
- in addition, the Caracas Metropolitan District Fire Brigade refuses to allow firefighters to exercise the rights to submit collective petitions and propose voluntary collective bargaining of conditions of work, the employer threatening to impose disciplinary sanctions and dismissals in cases where collective disputes arise.

- 80.** In its communication of 21 February 2003, ASINBOMPROVEN sends new information which was transmitted to the Government for its observations. According to this organization, the Caracas Metropolitan District Fire Brigade does not apply the rights contained in the collective agreement signed before the merger of the capital’s fire brigades in the case of 220 firefighters. Administrative proceedings were commenced against the president of the trade union for having invited the media to an interview in the trade union premises. In addition, for informing members of the date of an assembly, disciplinary action was taken against Martín Rodríguez, the trade union’s secretary for international affairs and relations.
- 81.** In its communication of 29 January 2003, the Government states that the fire brigades have been decentralized and that the Constitution of the Republic recognizes their civilian character. The Ministry of Labour has achieved a series of steps forward in the face of attempts by the employers (some governors and mayors) to challenge the registration or inscription of trade unions in this sector (such as the new organization ASINBOMPROVEN which merges several unions) and has recognized the corresponding trade union rights (including collective bargaining) seeking by all means to remedy anti-union conduct and acts of anti-union discrimination.
- 82.** The most striking cases of anti-union discrimination have been those suffered by the officials and members of the Trade Union Association of Professional Firefighters, Auxiliaries and Others of the Federal District and the State of Miranda, as well as the Firefighters Trade Union of the Municipalities of Guacara, San Joaquín and Mariana in the State of Carabobo. Indeed, the obduracy and deliberate refusal by the employers to voluntarily comply with the reinstatement orders issued by the labour administration, assisted by the suborning, connivance and complicity of the labour courts, forced the National Legislative Commission, mandated by the National Constituent Assembly, to pass a resolution of 5 June 2002 which emphatically ratified the obligation to reinstate and

compensate the workers affected by the anti-union discrimination. The Government sends a copy of this Commission's resolution.

- 83.** As regards the judicial guarantees of compliance with these obligations, as pointed out, the story is contradictory and at times disappointing given the subordination and the situation described above which, some noteworthy exceptions apart, have occurred in the past and persist now. In this respect, there is a situation of impunity which makes it impossible to reinstate quickly the officials and members of SINPROBOM and SINTRABOM. However, the reinstatement order in respect of Emerson Ochoa, under the procedure of constitutional *amparo* or legal protection was recently obeyed. According to documentation from local authorities, Tomás Arancibia has been reinstated and received his wage arrears.
- 84.** The Government adds that the national executive, through the Ministry of Labour, recognizes the firefighters' right freely and voluntarily to negotiate their conditions of work with their respective employers. Certainly this right has been limited by the exercise of command by the authorities within institutions which state that such a right is not possible given the application of a "paramilitary" or "quasi military" discipline. Nevertheless, in 1995, SINPROBOM discussed with its employer, the Eastern Joint Fire Brigade, the first collective agreement for this category of workers in the country. This contractual instrument was formally deposited with the respective Inspectorate of Labour and was subsequently revised and amended, although not without disputes, the last of which involved a hunger strike in front of the town hall in the autonomous municipality of Chacao in the State of Miranda, aimed at forcing compliance with the universal principle of equal pay for equal work. Likewise, after years of trade union persecution, the trade union officials of the Fire Brigade Foundation of the municipalities of Guaraca, San Joaquín and Mariara in the State of Carabobo are engaged in a process of voluntary collective bargaining with the employer concerned.
- 85.** The most significant express and positive recognition of the right of voluntary collective bargaining for this sector can be found in article 54 of the Decree of 28 May 2002 creating the Caracas Metropolitan District Fire Brigade. It is expressly laid down there that it must imperatively be respected and obeyed and its provisions remain in force.
- 86.** In the authoritarian and militaristic view of those who rule the Caracas metropolitan mayor's office, and a group of officers and commanders of the capital's fire brigade, the creation of the new body was a good opportunity to eliminate the country's principal firefighters' trade union. It should not be forgotten that those who make up and preside over the National College of Firefighters are, at the same time, the employers' representatives at national level. It is thus a case of an association presided over by the Commanders of the Caracas Fire Brigades who at the same time claim to discuss their economic and professional interests. In the face of this a priori anti-union position, the future of the Eastern Joint Fire Brigade (which no longer exists) was the perfect alibi for the elimination of SINPROBOM. To such an extent that, despite the efforts of the metropolitan mayor to prevent the transfer and merger of the fire services, thereby avoiding recognition of the trade union, the metropolitan council, the legislative organ of the city of Caracas, adopted the Decree creating the Caracas Metropolitan District Fire Brigade. The opposition of the metropolitan mayor of Caracas was so manifest that he even refused to sign the new Decree as required by the Municipal Government Organic Act and it had to be published under the signature of the vice-president of the metropolitan council.
- 87.** This explains a series of acts by the representatives of the city council and the representatives of the new Caracas Metropolitan District Fire Brigade, regarding which the national executive continues to be watchful to prevent further human rights violation such

as: (a) discrimination in prompt and correct payment of wages and other remuneration to trade union officials and activists; (b) unilateral compulsory retirement of trade union officials; (c) raids on trade union offices; (d) failure to respect trade union permits and leave; (e) the deliberate public campaign by commanders of the Caracas Metropolitan District Fire Brigade to collect enforced signatures rejecting the trade union, supporting public statements by the Caracas metropolitan mayor; and (f) the physical assaults and aggression against trade union officials. Conduct which violates and fundamentally threatens human rights and the international obligations assumed by the Republic has thus worsened. This situation, clearly, will ensure that the metropolitan mayor and authorities of the Caracas Metropolitan District Fire Brigade act in a way which respects their firefighters' human rights, including freedom of association and collective bargaining.

- 88.** In the allegations in the present case, the Government goes on to say, various acts and different individual situations have been mentioned involving state and municipal authorities. The majority of these authorities form part of the ultra-right opposition block which facilitated and contributed to the *coup d'état* last 11 April 2002, in particular, the metropolitan mayor, the governor of the State of Yaracuy, the mayors of the autonomous municipalities of Chacao and Baruta in the State of Miranda and the governor of the State of Miranda. These people, with their authoritarian and fascist baggage, are behind the persecution suffered for years and still suffered by officials and activists of SINPROBOM, now ASINBOMPROVEN. They are the ones who refused to discuss conditions of work voluntarily, who refuse registration of trade unions, who do not accept the consequences of the Decree creating the Caracas Metropolitan District Fire Brigade, who refuse leave and permissions for trade union activities and who are promoting a campaign of repression and vilification within the fire brigades, thus engaging in various forms of discrimination.
- 89.** The position of the national executive has been to call on these authorities to reflect on their actions, fall into line with the framework of the law and the Constitution, and acknowledge that the enjoyment of freedom of association does not conspire against the exercise of government, since unionized firefighters have demonstrated an excellent level of public service as well as formulating proposals to the Government on cost savings and optimizing service to the public.
- 90.** The national executive, through the Ministry of Labour, will continue to conduct investigations to verify compliance with the obligations contained in Conventions Nos. 87 and 98 of the International Labour Organization.
- 91.** Finally, the Government sends the replies of the mayors and institutions mentioned in the complaints, which are summarized as follows:
- The wage arrears of officers belonging to the Eastern Joint Fire Brigade and transferred in 2002 to the metropolitan district were paid and the delay was due to causes beyond the town hall's control. These workers include the trade union official Tomás Arancibia. The wages of Glácido Gutiérrez were also paid.
 - The collection of signatures in the Metropolitan District Fire Brigade did not come from the brigade's commander but was an initiative by a group of senior officers and other ranks, in particular concerning the promotion of a supposed trade union unknown to them, who had not participated in its formation and in the absence of an electoral process. The trade union did not represent the brigade's collective interests, although it had the support of groups of staff of other brigades in the country.
 - No blacklists were drawn up. Thirteen officers refused to work in the assigned places and were absent from duty claiming trade union business when they did not have any kind of trade union leave.
 - The supposed complainant union did not request any leave from the employer nor can it enforce a collective agreement with a former fire brigade (which no longer exists).

- As to the alleged requests to vacate trade union premises or banning of meetings, the premises were occupied by members of the presumed trade union without authorization. A period of notice was given to move out but they were not evicted.
- As regards the transfer of the trade union official, Luis Rodríguez Herrera and his subsequent compulsory retirement, the trade union's registration was not known and the transfer (without demotion) of the workplace is quite normal due to the needs of the service. Retirement is not a punishment but a benefit which may not be waived.
- As to the violation of collective bargaining, the trade union which was party to the collective agreement (which did not apply to the metropolitan district) no longer exists. No petition was presented in the metropolitan district. No disciplinary sanctions were imposed and there were no threats.
- In November 2001, the wages of the Eastern Joint Fire Brigade were aligned with those of the metropolitan firefighters, including administrative personnel. For this reason, the metropolitan mayor simply considered it unnecessary to mention parity in the Decree to which the complainant refers (moreover the mayor's proposal was not accepted by the metropolitan council). The benefits enjoyed by the employees of the Joint Brigade (including those achieved through collective bargaining) are in essence the same as those enjoyed by officers of the Metropolitan District Fire Brigade. Thus, their hierarchy, seniority and acquired rights were respected.

Dismissals of unionized firefighters

92. *The Committee observes that, according to the Government, the labour administration ordered the reinstatement of the dismissed officers but the attitude of the employers with the suborning, connivance and complicity of the labour courts (from which they sought reinstatement) resulted in the National Legislative Commission passing the resolution of 5 June 2002 ratifying the obligation to reinstate and compensate the workers concerned.*

93. *The Committee notes that the Government reports that Emerson Ochoa has been reinstated as the result of a judicial measure of "amparo" and that according to the local authorities, Tomás Arancibia has been reinstated and has received his wage arrears. Trade union official Glácido Gutiérrez has also received his wages. The Committee requests the Government to inform it of the decision of the judicial authority on the question of the reinstatement of trade unionists Rubén Gutiérrez and Juan Bautista Medina and payment of unpaid wages.*

Draft decree restricting firefighters' trade union rights

94. *The Committee understands that by the Decree of 28 May 2002 the abovementioned draft decrees mentioned by the complainants were dropped and observes that, as the Government states, article 54 of that Decree recognizes the right of collective bargaining (this Decree was agreed with the trade unions, according to the local authorities) and that collective bargaining is in progress in the municipalities of Guacara, San Joaquín and Mariana. The Committee notes that the Government states that the Constitution of the Republic recognizes the civilian character of the fire brigades and that the Government recognizes the trade union rights of such workers and points out that a new organization, ASINBOMPROVEN, has been formed which merges several existing trade unions. The Committee finds that the abovementioned Decree does not provide for the dissolution of trade unions or the constitution of an association controlled by the employers unlike, according to the complainant, the previous draft decrees which were dropped. The Committee requests the Government to take measures to guarantee the exercise of trade union rights in the fire-fighting sector.*

Anti-union campaign to prevent the right of free association of firefighters in the Eastern Joint Fire Brigade, the Guacara, San Joaquín and Mariara Fire Brigade Foundation, and the Valencia Fire Brigade Autonomous Municipal Institute

95. *The Committee requests the Government to have the labour inspectorate undertake an investigation into obstacles to free association in the bodies mentioned by the complainant and to inform it thereof.*

Harassment and vilification campaign against the Yaracuy Fire Brigade Foundation and the promulgation of the law of 22 December 2001 which excludes firefighters from the rights of free association and collective bargaining

96. *The Committee requests the Government to send it the text of the law in question and to have the labour inspectorate undertake an investigation into the alleged harassment and vilification campaign.*

New allegations

97. *As regards the allegations of SINPROBOM (8 May 2002) and ASINBOMPROVEN (September 2002), the Committee notes that the Government confirms the allegations and attributes anti-union conduct to different local authorities, while the local authorities deny that they have an anti-union attitude and offer a different version of the facts. The Committee notes the Government's wish to continue with investigations and requests it to have the labour administrative authority (labour inspectorate) carry out an exhaustive investigation and inform it thereof. The Committee further requests that the investigation should also cover the allegations of ASINBOMPROVEN of 21 February 2003. The Committee requests the Government to take the necessary measures to ensure full respect for trade union rights in the fire-fighting sector.*

Case No. 2161 (Venezuela)

98. At its meeting in March 2003, the Committee made the following recommendations on questions that remained pending [see 330th Report, para. 1147]:

- The Committee requests the Government to take the necessary measures (including sanctions) to ensure the reinstatement of the trade union officials who remain dismissed by the Foundation of the Museum of Contemporary Art of Caracas and the payment of the wages owing to them. The Committee requests the Government to keep it informed in this regard.

[In its communication of 25 September 2002, the complainant organization had indicated that the Foundation of the Museum of Contemporary Arts in Caracas, without the prior authorization of the Labour Inspectorate required by law, had dismissed trade union officials Jorge Moreno (Secretary-General), José Gregorio González (Secretary), Delvis Beomont (Treasurer), Alfonso Perdomo (Public Relations Officer) and Omar Burgos (Secretary for Labour and Complaints [see 330th Report, para. 1136]. At its meeting in July 2002, the Committee made the following recommendations [see 328th Report, para. 676]: “As regards the dismissal of the trade union leaders Teresa Zottola and Sonia Chacón, the Committee urges the Government to investigate promptly and impartially these dismissals and, if their anti-union nature is established, to take the necessary measures without delay to reinstate the trade union officials in question in their posts. The Committee requests the Government to keep it informed in this regard.”]

- The Committee requests the Government to take the necessary legislative or other steps to speed up the procedures relating to anti-union discrimination.

- The Committee reminds the Government that the technical assistance of the ILO at its disposal in relation to the issue of slowness of the pending proceedings concerning anti-union dismissals and other acts of anti-union discrimination.

- 99.** In its communication of 28 March 2003, the Government states that the Labour Administration shares the concerns of the Committee on Freedom of Association with regard to the urgent need for legislative reforms to speed up rulings protecting workers from anti-union discrimination. In the light of this, the Executive, together with the National Assembly's Commission for Social Development, has proposed certain legislative amendments, of which the ILO will be informed in good time so that it may provide the necessary technical assistance. The Government also indicates that, in accordance with the recommendation made by the Committee on Freedom of Association, it will initiate a process of social dialogue aimed at evaluating these measures, the results thereof and the financial resources needed to provide the Labour Administration with the personnel and infrastructure that will allow more effective application of legislation.
- 100.** As regards the situation of members of SUTRAMACCSI affected by anti-union discrimination, the Government states that it is continuing to move ahead with measures intended to bring about the reinstatement of the trade union officials by the employers, that it has imposed financial penalties and is considering claims made by employees in connection with the employer's failure to meet its obligations. Similarly, it has indicated that the Deputy Minister for Culture has been replaced for, among other reasons, disregarding instructions from the Labour Administration to reinstate the union officials affected by anti-union measures.
- 101.** *The Committee notes the measures adopted by the Government with a view to implementing its recommendations regarding the reinstatement of dismissed SUTRAMACCSI officials, and requests the Government to continue to take steps to ensure that the "Sofía Imbert" Museum of Contemporary Art in Caracas reinstates them in their posts. The Committee also notes in this connection that the authorities have proposed amendments to legislation relating to anti-union discrimination, and will be requesting the ILO's technical assistance. The Committee requests the Government to keep it informed of developments with regard to the dismissed individuals and to legislation, and hopes that these matters will soon be satisfactorily resolved.*

Cases Nos. 1937 and 2027 (Zimbabwe)

- 102.** The Committee last examined these cases at its March 2002 meeting. As regards Case No. 1937, it requested the Government to transmit a copy of the Labour Amendment Bill so that it could examine the Bill's conformity with freedom of association principles and previous recommendations concerning the Labour Relations Act [see 327th Report, paras. 130-132]. As regards Case No. 2027, it once again requested the Government to: (1) take the necessary measures to institute an independent investigation into the assault on Mr. Morgan Tsavangirai; (2) take the necessary measures to institute an independent investigation into the arson of the ZCTU offices; (3) keep it informed of any progress made in the amendments to the Labour Relations Act; and (4) keep it informed of any further information it may receive concerning the ZCTU case before the High Court [see 327th Report, paras. 133-135].
- 103.** In a communication dated 10 February 2003, the Government stated that the Labour Amendment Bill, including amendments, was passed by Parliament on 18 December 2002 and will come into force with the President's assent. A copy of the Bill has been transmitted to the Office. In addition, more specifically concerning Case No. 2027, the Government reiterates its position in respect of the assault on Mr. Morgan Tsavangirai. It reaffirms that it would set a wrong precedent to set up a judiciary inquiry over a case

which was competently handled by the courts of law. As concerns the arson of the ZCTU offices, the Government mentions that no information about the arrest of the perpetrators has been received.

- 104.** *The Committee takes note of this information. It notes with interest the amendments made to sections 98, 99 and 100 of the Labour Relations Act, which had granted broad powers to the labour authority to refer disputes to compulsory arbitration. It also notes that the definition of “unlawful collective job action” was not amended as proposed in the former Labour Relations Amendment Bill of 1999. However, some problems remain in the present version of the Bill. Firstly, the various definitions given to the term “unlawful collective job action” may raise difficulty in respect of the right to strike which should not be limited to industrial disputes that are likely to be resolved through the signing of a collective agreement. The Committee recalls 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 [see **Digest of decisions and principles of the Freedom of Association Committee**, 4th edition, 1996, para. 479]. It requests the Government to indicate the manner in which, under current law, it is ensured that industrial action may be taken in respect of questions of economic and social policy without sanctions.*
- 105.** *Secondly, the Committee notes that, in the case of unlawful collective job action being organized as strictly defined in the Bill, excessive sanctions are provided. Sections 109 and 112 establish possible imprisonment of the individual engaged in an unlawful collective job 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 must recall 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 [see **Digest**, op. cit., para. 599]. Furthermore, concerning the sanctions of dismissal and dissolution, it recalls that no one should be penalized for carrying out or attempting to carry out a legitimate strike [see **Digest**, op. cit., para. 590] and that, in any case, the sanctions imposed should not be disproportionate to the seriousness of the violations [see **General Survey of the Committee of Experts on the Application of Conventions and Recommendations**, 81st Session, 1994, para. 178]. Therefore, the Committee requests the Government to amend the Labour Amendment Bill so as to bring it into conformity with freedom of association principles on this point.*
- 106.** *The Committee takes note of the information related to the assault on Mr. Morgan Tsavangirai. Once again it expresses its deep regret that the Government maintains its previous position concerning that case. It recalls that the case would not appear to have been “completely handled by the courts” as the Government in the past has only referred to the acquittal of an alleged assailant. The Committee emphasizes that the absence of judgements against the guilty parties creates a situation of impunity which reinforces the climate of violence [see **Digest**, op. cit., para. 55]. Such climate aimed at trade union leaders and their families is not favourable to the free exercise of trade union rights and all States have the duty to guarantee their respect [see **Digest**, op. cit., paras. 55 and 61]. The Committee therefore urges the Government to ensure that an independent investigation is fully carried to its term with the aim of identifying and punishing the guilty parties. The Committee also requests the Government to keep it informed of developments concerning the investigation into the arson of the ZCTU offices. Finally, the Committee once again requests the Government to keep it informed of the judgement of the High Court concerning the temporary ban on industrial action issued in November 1998.*

Case No. 2081 (Zimbabwe)

- 107.** The Committee last examined this case at its November 2002 meeting in which it again urged the Government to take the necessary measures to amend section 120 of the Labour Relations Act in order to bring it into line with freedom of association principles. It asked to be kept informed of developments in this regard [see 329th Report, paras. 156-159].
- 108.** In a communication dated 10 February 2003, the Government stated that the Labour Amendment Bill, including amendments, was passed by Parliament on 18 December 2002 and will come into force with the President's assent. A copy of the Bill has been transmitted to the Office.
- 109.** *The Committee notes with regret that section 120 of the Labour Relations Act was not amended. It recalls once again that section 120 gives rise to two different sets of problems from the standpoint of freedom of association. Paragraphs (a) and (b) of subsection (2) of section 120 authorize an investigator appointed by the Minister to enter trade union premises and question any person employed there at all reasonable times and without prior notice. The Committee has emphasized in this respect that the right of the inviolability of trade union premises necessarily implies that the public authorities may not insist on entering such premises without prior authorization or without having obtained a legal warrant to do so and any search of trade union premises, or of unionists' homes, without a court order constitutes an extremely serious infringement of freedom of association [see **Digest of decisions and principles of the Freedom of Association Committee**, 4th edition, 1996, paras. 175 and 177]. Moreover, searches of trade union premises should be made only following the issue of a warrant by the ordinary judicial authority where that authority is satisfied that there are reasonable grounds for supposing that evidence exists on the premises material to a prosecution for a penal offence and on condition that the search be restricted to the purpose in respect of which the warrant was issued [see **Digest**, *op. cit.*, para. 180].*
- 110.** *Secondly, as regards paragraph (c) of subsection (2), which empowers an investigator, at all reasonable times, and without prior notice, to inspect and make copies and take extracts from any books, records or other documents on trade union premises, the Committee has previously stated that the control exercised by the public authorities over trade union finances should not normally exceed the obligation to submit periodic reports. The discretionary right of the authorities to carry out inspections and request information at any time entails a danger of interference in the internal administration of trade unions. Moreover, as regards certain measures of investigations, the Committee has considered that these should be applied only in exceptional cases, when justified by grave circumstances (for instance, presumed irregularities in the annual statement or irregularities reported by members of the organization), in order to avoid any discrimination between one trade union and another and to preclude the danger of excessive intervention by the authorities which hamper a union's exercise of the right to organize its administration freely, and also to avoid harmful and perhaps unjustified publicity or the disclosure of information which might be confidential [see **Digest**, *op. cit.*, paras. 443 and 444]. The Committee notes that the powers of supervision contained in paragraph (c) of subsection (2) are not limited to exceptional cases; rather this provision gives excessive powers of inquiry to the administrative authorities into financial management of trade unions, thereby violating the right of workers' and employers' organizations to organize their administration without interference by the public authorities.*

111. *In light of the above, the Committee once again urges the Government to take the necessary measures to amend section 120 of the Labour Relations Act so as to bring it into conformity with freedom of the abovementioned and asks to be kept informed of any developments in this regard.*

112. *Finally, as regards Cases Nos. 1785 (Poland), 1826 (Philippines), 1843 (Sudan), 1854 (India), 1890 (India), 1930 (China), 1943 (Canada), 1951 (Canada), 1959 (United Kingdom/Bermuda), 1965 (Panama), 1970 (Guatemala), 1973 (Colombia), 1975 (Canada), 2006 (Pakistan), 2017 (Guatemala), 2018 (Ukraine), 2031 (China), 2038 (Ukraine), 2048 (Morocco), 2050 (Guatemala), 2051 (Colombia), 2067 (Venezuela), 2075 (Ukraine), 2083 (Canada), 2086 (Paraguay), 2105 (Paraguay), 2109 (Morocco), 2118 (Hungary), 2120 (Nepal), 2124 (Lebanon), 2126 (Turkey), 2128 (Gabon), 2129 (Chad), 2133 (Serbia and Montenegro), 2134 (Panama), 2139 (Japan), 2140 (Bosnia and Herzegovina), 2141 (Chile), 2143 (Swaziland), 2144 (Georgia), 2146 (Serbia and Montenegro), 2147 (Turkey), 2148 (Togo), 2150 (Chile), 2160 (Venezuela), 2163 (Nicaragua), 2166 (Canada), 2167 (Guatemala), 2173 (Canada), 2176 (Japan), 2178 (Denmark), 2180 (Canada), 2182 (Thailand), 2188 (Bangladesh), 2191 (Venezuela), 2192 (Togo), 2195 (Philippines), 2196 (Canada), 2206 (Nicaragua), 2207 (Mexico), 2208 (El Salvador), 2212 (Greece), 2229 (Pakistan) and 2230 (Guatemala), the Committee requests the governments concerned to keep it informed of any developments relating to these cases. It hopes that these governments will quickly provide the information requested. In addition, the Committee has just received information concerning Cases Nos. 1888 (Ethiopia), 1957 (Bulgaria), 1992 (Brazil), 2047 (Bulgaria), 2058 (Venezuela), 2079 (Ukraine), 2106 (Mauritius), 2115 (Mexico), 2136 (Mexico), 2151 (Colombia), 2171 (Sweden) and 2198 (Kazakhstan), which it will examine at its next meeting.*

CASE NO. 2127

REPORT IN WHICH THE COMMITTEE REQUESTS
TO BE KEPT INFORMED OF DEVELOPMENTS

**Complaint against the Government of Bahamas
presented by**

- **the Commonwealth of the Bahamas Trade Union Congress (CBTUC)**
- **the National Congress of Trade Unions (NCTU)**
- **the Bahamas Air Traffic Controllers' Union (BATCU) and**
- **the International Confederation of Free Trade Unions (ICFTU)**

Allegations: The complainants allege lack of protection against acts of anti-union discrimination and employer interference, violation of their right to be represented by a union, as well as unfair dismissals and suspensions during a labour dispute.

113. The Committee examined this case at its March 2002 meeting [see 327nd Report, paras. 174-197, approved by the Governing Body at its 283rd Session (March 2002)]. The Bahamas Air Traffic Controllers' Union (BATCU) sent additional information in a communication dated 5 May 2003.

114. The Government sent its observations in a communication dated 17 December 2002.

115. The Bahamas has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

116. In its previous examination of the case in March 2002, the Committee made the following recommendations [see 327th Report, para. 197]:

- (a) The Committee requests the Government to take appropriate measures with a view to putting rapidly into place adequate, impartial and speedy conciliation and arbitration proceedings to compensate air traffic controllers for the restrictions on the right to strike, and to keep it informed of developments in that respect.
- (b) The Committee requests the Government and the complainants to provide updated information on the exact nature of the sanctions ultimately imposed upon the air traffic controllers involved.
- (c) The Committee requests the complainants to provide further information on the trade union situation in the hotel, tourism and related businesses.
- (d) The Committee requests the Government to keep it informed of the judgement of the Privy Council in this matter and provide a copy of same.

The complainant's additional allegations

117. In its communication dated 5 May 2003, the Bahamas Air Traffic Controllers' Union (BATCU) states that pursuant to the general election of May 2002 and a change of policy by the new Government, all employees concerned by the complaint have been reinstated and re-certified and all suspended air traffic controllers have returned to their normal duties.

B. The Government's further reply

118. In a communication dated 17 December 2002, the Government states that the newly elected Government has effectively resolved the case by reinstating and re-certifying all affected employees. The Government attaches a copy of the terms of settlement agreed between the Bahamas Air Traffic Controllers' Union (BATCU) and the Ministry of Transport/Department of Civil Aviation. The terms are the following:

- Those employees who had been transferred or redeployed may report to the Department of Civil Aviation for re-certification/reassignment.
- All letters of reprimand shall be removed from the file of the employees that are the subject of this dispute.
- A letter will be placed on the record of those trade union members who were on the roster on 21 and 22 March 2001, with regard to system irregularities on those days.
- The employer will offer no evidence before the disciplinary tribunal on a case concerning employees who have been interdicted. Following the dismissal of the case, the interdiction will end. Employees will thereafter return to work at the next normal day for re-certification.

- The employer will take measures to reverse the dismissal proceedings against all employees that are the subject of this dispute.
- Following reassignment and the withdrawal of all disciplinary actions, the parties will mutually withdraw from all pending court cases and shall abstain from any further action for damages arising out of this case.
- A new round of negotiations will be launched towards an industrial agreement.
- Each side promises that it will use its best endeavours to cooperate in accordance with the Code of Industrial Practice pursuant to the Industrial Relations Act and ensure that there is peace and good order in the workplace.

C. The Committee's conclusions

- 119.** *The Committee notes with satisfaction that all employees affected by the dispute in the air traffic control sector have been reinstated and re-certified pursuant to an agreement reached between the parties to the dispute.*
- 120.** *The Committee notes that the Government has not provided any information with regard to the establishment of adequate, impartial and speedy conciliation and arbitration machinery to compensate air traffic controllers for the restrictions on the right to strike. The Committee once again requests the Government to indicate the measures taken to compensate for restrictions of the right to strike in the field of air traffic control through adequate, impartial and speedy conciliation and arbitration proceedings. The Committee draws the attention of the Committee of Experts on the Application of Conventions and Recommendations to the legislative aspects of the case.*

The Committee's recommendations

- 121.** *In the light of its foregoing conclusions, the Committee requests the Governing Body to approve the following recommendations:*
- (a) The Committee notes with satisfaction that all employees affected by the dispute in the air traffic control sector have been reinstated and re-certified pursuant to an agreement reached between the parties to the dispute.*
 - (b) The Committee once again requests the Government to indicate the measures taken to compensate for restrictions of the right to strike in the field of air traffic control through adequate, impartial and speedy conciliation and arbitration proceedings. The Committee draws the attention of the Committee of Experts on the Application of Conventions and Recommendations to the legislative aspects of the case.*

CASE NO. 2090

INTERIM REPORT

**Complaint against the Government of Belarus
presented by**

- **the Belarusian Automobile and Agricultural Machinery Workers' Union (AAMWU)**
- **the Agricultural Sector Workers' Union (ASWU)**
- **the Radio and Electronic Workers' Union (REWU)**
- **the Congress of Democratic Trade Unions (CDTU)**
- **the Federation of Trade Unions of Belarus (FPB)**
- **the Belarusian Free Trade Union (BFTU)**
- **the Belarusian Trade Union of Air Traffic Controllers (BPAD)**
- **the International Confederation of Free Trade Unions (ICFTU) and**
- **the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)**

Allegations: The complainants' pending allegations concern: interference by government authorities with trade union activities and elections, in particular as concerns the presidency of the trade union federation and subsequent favouritism; interference in the internal activities of the BPAD and the Minsk Regional Trade Union Organization of Employees in the Cultural Sphere and anti-union discrimination as concerns their members; dismissals of Mr. Evgenov, Mr. Eymenov and Mr. Bourgov and threats of dismissal against members of the GPO "Khimvolokno" and "Zenith" Free Trade Unions; refusal to employ the re-elected chairperson of the Free Trade Union of Metalworkers at the Minsk Automobile Plant, Mr. Marinich; non-registration of the BFTU trade union at the Khimvolokno State Production Amalgamation; interference in internal trade union activities by virtue of Presidential Decrees Nos. 8 and 11.

122. The Committee has examined the substance of this case on several occasions when it presented interim reports to the Governing Body [324th Report, paras. 133-218; 325th Report, paras. 111-181; 326th Report, paras. 210-244; 329th Report, paras. 217-281; and 330th Report, paras. 207-238, approved by the Governing Body at its 280th, 281st, 282nd, 285th and 286th Sessions (March, June and November 2001, November 2002 and March 2003)]. New allegations and supplementary information were received from the Belarusian Free Trade Union (BFTU), the Congress of Democratic Trade Unions (CDTU),

the Belarusian Trade Union of Air Traffic Controllers (BPAD) and the International Confederation of Free Trade Unions (ICFTU) in communications of 4, 5, 6 and 19 February 2003 which were summarized briefly in the Committee's last examination of the case and are set out in detail below. Additional allegations were transmitted by the Radio and Electronic Workers' Union (REWU) in a communication dated 2 May 2003.

- 123.** The Federation of Trade Unions of Belarus (FPB) transmitted a communication dated 10 March 2003 concerning certain matters raised in this case.
- 124.** The Government transmitted additional information in a communication dated 21 March 2003.
- 125.** Belarus has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

- 126.** At its March 2003 session, the Governing Body approved the following recommendations in the light of the Committee's interim conclusions:
- (a) In light of the fact that the Government has taken no steps to implement its previous recommendations, the Committee must once again urge the Government to:
- (i) establish independent investigations, having the confidence of all parties concerned, into the allegations of government interference in the elections of the Federation of Trade Unions of Belarus (FPB), the Agricultural Sector Workers' Union (ASWU), the Brest Regional Association of Trade Unions and the Brest Regional Committee of Science and Education Unions, with the aim of rectifying any effects of this interference;
 - (ii) institute independent investigations into the allegations of anti-union tactics made in respect of the GPO "Khimvolokno" Free Trade Union and the Free Trade Union at the "Zenith Plant";
 - (iii) institute an independent investigation into the allegations of managerial pressure for the establishment of a regional trade union of electronics industry workers and for the affiliation of the Tsvetotron plant to the new regional union;
 - (iv) take the necessary steps for the registration of the Belarusian Free Trade Union at the Khimvolokno State Production Amalgamation and eliminate any remaining obstacles to trade union registration noted in its previous report;
 - (v) amend Presidential Decree No. 8 so that workers' and employers' organizations may benefit freely, and without previous authorization, from the assistance which might be provided by international organizations for activities compatible with freedom of association, and Presidential Decree No. 11 so as to ensure that restrictions on picketing and other demonstrations called by workers' or employers' organizations are limited to cases where the action ceases to be peaceful or results in a serious disturbance of public order and so that any sanctions imposed will be proportionate to the violation incurred.

The Government is requested to keep the Committee informed of the progress made in this regard and the outcome of the investigations.

- (b) The Committee requests the Government to provide information on the extent to which alternative organizations representing workers, such as those present in the complaint, may participate in the various national tripartite bodies, such as the National Council for Labour and Social Issues and the Group of Experts on issues relating to the application of international labour standards and to reply to the complainants' new allegations in this regard.
- (c) The Government is requested to keep the Committee informed of the measures taken in respect of the reinstatements of Mr. Evgenov, Mr. Evmenov and Mr. Bourgov and to reply to the new allegations made in respect of Mr. Evmenov.
- (d) The Committee requests the Government to provide information on the alleged refusal to employ the re-elected chairperson of the Free Trade Union of Metalworkers at the Minsk Automobile Plant, Mr. Marinich, and invites the complainants to provide any additional information it might have as to the current status of Mr. Marinich.
- (e) The Government is requested to reply urgently to the new allegations and supplementary information transmitted in the complainants' communications of February 2003.

B. The complainants' additional allegations

- 127.** In its communication dated 4 February 2003, the Belarusian Free Trade Union (BFTU) states that the human and trade union rights situation in Belarus is not improving. The Government ignores all appeals of the international trade union movement and the ILO to take measures aimed at establishing order. As a result the status of citizens and workers whose rights have been violated is worsening.
- 128.** The BFTU refers to Mr. Evmenov, who was dismissed from his job in January 2000 due to his refusal to work on the *subbotnik* and is still unemployed. In 2002, he applied directly to the chairperson of the Osipovichi District Executive Committee with a demand to implement the ILO recommendation for his reinstatement and compensation of all lost income but only received a cynical reply that due to his negative professional references all enterprises and institutions of the town refused to employ him. In October 2002, he managed to obtain temporary employment but was subsequently dismissed. It was reportedly stated that the competent authorities were commissioned to find out who had helped him obtain employment, even if temporary.
- 129.** The Congress of Democratic Trade Unions (CDTU) sent a communication dated 5 February 2003 providing, in its opinion, additional proof that the Federation of Trade Unions of Belarus (FPB) is, at present, a governmental trade union under complete control of the State and under its patronage.
- 130.** The CDTU and its structural units rent their premises from the FPB. These premises were purchased by the FPB in the communist times when there was a state monopoly on trade union activities. In those years, the entire workforce used to automatically sign up for trade union membership and paid dues on a "voluntary-compulsory" basis. The FPB property was thus being created at the expense of the entire population, including today's CDTU members. That is why, since the emergence of the independent trade union movement, there has been the practice that the CDTU and its structural units rented premises (very limited) from the FPB on the rates fixed for non-profit associations renting premises owned by the State. The relations formed had never been broken for over ten years. The situation changed, however, when Mr. Kozik was appointed president of the FPB. The CDTU and its structural units were notified of the intention to increase the rent twentyfold,

thus freezing them out of the premises. The goal according to the CDTU was obviously to create problems with the legal address and potentially render the organization illegitimate.

- 131.** The CDTU raised this matter, and the issue of the Presidential Decree of November 2002, which grants the FPB only the right to use the official name of the State in its title, with the Prosecutor-General to no avail. The CDTU thus queries why the other trade unions are discriminated against and argues that such acts demonstrate that the FPB is a state institution.
- 132.** Further proof is that the FPB held negotiations and signed the General Tripartite Agreement with the Government and the Confederation of Manufacturers and Entrepreneurs of Belarus on behalf of the republican trade union associations, behind the back of the CDTU. According to the CDTU, this and other acts of favouritism demonstrate that the FPB cannot, in the present circumstances, act independently.
- 133.** In a communication dated 6 February 2003, the Belarusian Trade Union of Air Traffic Controllers (BPAD), a new complainant in this case, alleges that, in 2002, a governmental body – the National Committee for Aviation – and the employer (the Belaeronavigatsiya Republican Unitary Enterprise) started violating international law and national legislation in respect of the BPAD. When trade union members undergo the rating procedure (increase of professional level) the officials of the National Committee ask whether the candidate is a member of the BPAD and criticize the activity of the union. According to the BPAD, this is a violation of the right to freedom of association and an attempt to interfere with trade union activity.
- 134.** Furthermore, in October 2002, a representative of the National Committee for Aviation suggested that the leadership of the BPAD consider integrating into the existing trade union of aviation workers (affiliated to the FPB) which would have implied liquidation of the BPAD. The BPAD made numerous attempts to integrate into the trade union of aviation workers, while nevertheless preserving their legal status, but these attempts failed. The trade union members then decided to join the CDTU. After that, the employer, being subordinate to the National Committee for Aviation, made several attempts aimed at liquidating the union. In a number of subdivisions of the enterprise, meetings were held where the heads of these subdivisions convinced the workers that it was impractical to be a member of the BPAD. Moreover, the applications for leaving the union were often written and signed by some workers in the office of the head of the corresponding subdivision.
- 135.** Furthermore, for three months the employer did not observe the legislation and the general agreement about transferring trade union dues to the account of the trade union organization, thus seriously impeding financial activities of the union. Other violations of trade union rights on the part of the employer concerned the official prohibition to distribute trade union information at the workplace without prior permission being obtained directly from the employer or his deputy and the repeated refusal to provide premises for holding meetings.
- 136.** All these actions of the employer were taken after the suggestion of the National Committee aimed at liquidating the BPAD, whereas before that the relations between the employer and the trade union were generally within the legal framework. Moreover, at the end of 2002, the National Committee for Aviation applied to the Ministry of Justice with a request to verify whether the BPAD was correctly registered, while the BPAD had been re-registered in 1999 according to Presidential Decree No. 2 and had faced no complaints in this respect. While the Ministry of Justice confirmed that the re-registration was legal, the Prosecutor-General commissioned the Transportation Prosecutor's office to investigate the legality of the union's registration and its activity and the union leader was requested to submit the list of its members.

- 137.** Finally, in June 2002, the administration of the Centre for Flight Coordination dismissed three trade union members who had formed a primary organization of the BPAD as soon as their contracts expired. These dismissals were obviously connected with their refusal to leave the BPAD upon the administration's demand. All three were dismissed without the legally required three months' severance pay.
- 138.** In its communication dated 19 February 2003, the International Confederation of Free Trade Unions (ICFTU) states that the trade union rights situation in Belarus has not improved during the last months. While the Government and the president of the FPB have expressed an alleged desire to improve their relations with the ILO, no concrete steps have been taken by the Government to implement the Committee's recommendations.
- 139.** The ICFTU has already denounced, in a previous communication sent to the Committee, the taking over by the public authorities – the Government and presidential administration – of the FPB. This has been highlighted, during the last months, by different measures taken by the Government, which clearly aim at favouring this organization, in a way which is often detrimental to the other trade union organizations. The best example is the recognition of the FPB among a list of organizations entitled to set up an "innovation fund", which will give it the right to benefit from a central budget, itself fuelled by 0.25 per cent of the costs of goods (work and service) sold by legal entities and business companies. This system of "innovation funds" was set up in 2002, with a list of beneficiaries including different public organizations. In 2003, the FPB was included in this list for the first time and is the only trade union organization which will benefit from this funding. The CDTU protested against this direct support by public funding for the FPB and against the discrimination it clearly established against their own organization.
- 140.** The president of the FPB has, moreover, called for the "unification" of the Belarus trade union movement. This call has been associated with direct pressures, leading the ICFTU to think that the main purpose is in fact the suppression of all independent trade union organizations in Belarus. The following facts (set out in detail in the above allegations) were put forward in support of this view: the increase of rent of union office space and related pressure; the exclusion of the CDTU in the national tripartite negotiations; the anti-union discrimination and interference in respect of the BPAD; and the continuing anti-union discrimination of Mr. Evmenov.
- 141.** The ICFTU also attaches to its communication a complaint made by the Minsk Regional Trade Union Organization of Employees in the Cultural Sphere (MRTUECS) and formally endorses this complaint. This complaint concerns the persistent attempts by the state authorities, supported by the leaders of the FPB, to destroy the MRTUECS. They refer to the illegal creation outside the FPB structure of a "trade union of employees of the sphere of culture and sport of the city of Minsk". The complainants state that the goal of this act was to take the professional organizations of federal and municipal subordination of Minsk out from under the control of the regional trade union organization and consequently to weaken its operation. The allegedly puppet organization began to fall apart in the fall of 2002 and certain primary trade union organizations came back to the regional structure; yet the local authorities persecuted the activists of this organization and transferred three members giving them discriminatory contracts.
- 142.** In October 2002, the Steering Committee of the Ministry of Culture and of the Minsk Municipal Executive Committee issued Decision No. 10/1497 which refers to the "orders of the President of Belarus at the IVth Special Assembly of the FPB on 19 September 2002" and requires that the FPB create the united Minsk municipal trade union organization of the employees of the cultural sphere. The decision further reads that the first deputy Minister of Culture and the deputy chair of the Minsk Municipal Executive Committee are made responsible for its implementation. This decision was fully supported

by the president of the FPB in a letter dated 9 December 2002 and attempts have been made to dismiss the chairperson of the MRTUECS.

143. On 24 December 2002, the IIIrd plenary session of the MRTUECS confirmed the consolidation of its ranks and criticized the interference by the state authorities and the FPB leadership in its internal affairs (a copy of the corresponding resolution was attached to the complaint). Further attempts are being made by the state and local authorities and the FPB to create an artificial organization to interfere with the MRTUECS, contrary to the principles of democracy, transparency and the relevant union by-laws.
144. In its communication dated 2 May 2003, the Radio and Electronic Workers' Union (REWU) transmitted additional allegations concerning new violations of trade union rights since the Committee's previous examination of the case. In particular, the REWU alleges that the President of the Federation of Trade Unions of Belarus (FPB) has made attempts, both in December 2002 and March 2003, to remove the president of REWU from office. These attempts were further aggravated by support from the Deputy Minister of Industry and were allegedly instigated in a report from the President of the Republic of Belarus. Similar difficulties were made for the President of the Belarusian Automobile and Agricultural Machinery Workers' Union (AAMWU). REWU concludes that the authorities have decided once again to attempt to eliminate the independent trade union movement in Belarus.

C. The Government's further reply

145. In its communication dated 21 March 2003, the Government states that it has carefully studied the facts relating to the election of the president of the Federation of Trade Unions of Belarus (FPB) and has concluded that the election took place in full accordance with the legislation of the Republic of Belarus and the FPB by-laws.
146. The Government recalls that the VIth plenary session of the FPB Council took place on 16 July 2002 in Minsk and was attended by 226 of the 252 members of the Council. The election of the President of the FPB and the fixing of the date for the extraordinary IVth FPB general conference were the main matters that arose during the plenary session.
147. At his own request the president of the FPB, Mr. Vitko, was released from his duties before the end of his term by a resolution of the VIth plenary session of the FPB Council. Of the FPB Council, 215 members voted in favour of the resolution for Mr. Vitko's release: five against, with six abstentions (in accordance with paragraph 5.11 of the FPB by-laws in force, "a resolution of the FPB Council shall be deemed to have been adopted if more than half the members of the FPB Council present at the meeting have voted in favour of it").
148. Before the plenary session of the FPB Council, the candidature of Mr. Kozik for the post of the president of the FPB was proposed by a number of trade union organizations of the Republic. The issue of possible candidature for the post of president of the FPB was also considered beforehand by the Presidium of the FPB Council on 12 July 2002, which recommended by an absolute majority of votes to elect Mr. Kozik, a member of the FPB Council from Minsk, to be president of the FPB. On behalf of the Presidium of the FPB Council, the candidature was submitted for consideration by the plenary session of the FPB Council. Those attending the plenary session submitted no other candidature for the post of president of the FPB.
149. The candidature of Mr. Kozik was supported by the former president of the FPB, Mr. Vitko, the deputy president of the FPB, the director of the FPB's "International Institute of Labour and Social Relations" and three FPB council members. His candidature

was opposed by the president of the Council of the Belarusian Automobile and Agricultural Machinery Worker's Union, Mr. Bukhvostov, and the president of the Republican Council of the Belarusian Radio and Electronic Worker's Union, Mr. Fedynich.

- 150.** In accordance with paragraph 5.7.6 of the FPB by-laws ("in cases where a president of the FPB leaves office before the end of his or her term or changes jobs, the FPB Council shall elect a new president"), Mr. Kozik was elected president at the VIth plenary session of the FPB Council – 208 people voted in favour of his election: ten against, with eight abstentions. Following Mr. Kozik's election as president of the FPB, he was released from his duties as Deputy Head of the Office of the President of the Republic of Belarus by Presidential Decree No. 392 of 17 June 2002. He was also released from other duties entrusted to him by the Head of State.
- 151.** Then, the extraordinary IVth FPB general conference, which took place from 18 to 19 September 2002, discussed the election of the president of the FPB and elected Mr. Kozik as president of the FPB and also elected new officers of the FPB Council and its Presidium.
- 152.** The Government thus notes that the FPB Council elected Mr. Kozik as its president in accordance with its by-laws and, two months later, the extraordinary FPB general conference, whose delegates had been elected under the previous administration of the Federation, confirmed the election. The Government also transmits information sent to it by the FPB about its work to defend the rights and interests of workers.

FPB information, transmitted by the Government, on its work to defend the rights and interests of workers

- 153.** The FPB recalls in a voluminous attachment to the Government's reply the numerous areas in which it has worked in defence of workers' rights and interests, including: the restoration of the check-off procedure for transfer of trade union dues, finalized on 27 January 2003 by Presidential Decree No. 41; the close monitoring of the legislative activities of state authorities at all levels in order to have the opportunity to express opinions in relation to decisions affecting workers' interests; inclusion of facilities for workers' organizations in the general agreement; the active monitoring of compliance with labour legislation; provision of legal advisory services; advocating the elimination of wage discrepancies and the increase of minimum wage guarantees; opposing the use of a single standard based on a percentage of production sales for wage funds and the introduction of an hourly wage rate for certain workers; and active involvement in issues relating to privatization, labour and social interests and injury compensation.
- 154.** According to the FPB, the positive results of its work are evident in the increase in people's trust in trade unions and are also demonstrated by the number of representations made to the FPB by citizens (37,328 citizens' representations were received by the president of the FPB, including 19,175 at enterprises, organizations and establishments).

D. Further information transmitted by the Federation of Trade Unions of Belarus (FPB)

- 155.** In a communication dated 10 March 2003, the FPB raised a number of issues relating to this case, in particular as concerns the problems affecting the trade union movement in Belarus. The FPB especially refers to alleged attempts by the International Confederation of Free Trade Unions (ICFTU) to split the trade union movement and isolate the Federation, preventing it from developing contacts with foreign unions. The FPB refers to

the Committee's recommendation for an independent inquiry into government interference in union elections, but raises instead the fact that the ICFTU has, in its opinion, unilaterally drawn conclusions about the election process. The FPB finds this particularly unacceptable in light of the representative nature of its organization, in contrast with the Congress of Democratic Trade Unions, which has only 4,000 members and is, according to the FPB, mainly a political organization.

E. The Committee's conclusions

- 156.** *The Committee notes that the pending and new allegations in this case concern: serious interference by government authorities with trade union activities and elections, in particular as concerns the presidency of the Federation of Trade Unions of Belarus (FPB) and subsequent favouritism towards the FPB; interference in the internal affairs of the Belarusian Trade Union of Air Traffic Controllers (BPAD) and of the Minsk Regional Trade Union Organization of Employees of the Cultural Sphere (MRTUECS) and serious anti-union discrimination as concerns their members, dismissals of Mr. Evgenov, Mr. Evmenov and Mr. Bourgov and threats of dismissal against members of the GPO "Khimvolokno" and "Zenith" Free Trade Unions; refusal to employ the re-elected chairperson of the Free Trade Union of Metalworkers at the Minsk Automobile Plant, Mr. Marinich; non-registration of the BFTU trade union at the Khimvolokno State Production Amalgamation; interference in internal trade union activities by virtue of Presidential Decrees Nos. 8 and 11.*
- 157.** *In the first instance, the Committee must once again observe with deep regret that the latest reply from the Government limits itself to reiterating the technical details of the resignation of Mr. Vitko, former president of the Federation of Trade Unions of Belarus (FPB), and the statutory election of Mr. Kozik, without addressing any of the issues raised in the allegations concerning the circumstances of this election and the impact of government interference in this process, nor has it indicated the steps taken to institute an independent investigation into this matter with the aim of rectifying any effects of government interference, as recommended by the Committee [see 329th Report, paras. 269-275].*
- 158.** *As for the information provided by the FPB, the Committee first notes that the communication transmitted by the Government focuses on the various activities undertaken by the FPB in the defence of workers' interests. The Committee considers it important in this respect to recall that it has never called into question the trade union status of the FPB. It is rather the question of the true independence of this organization, within the context of government interference in the elections of 2002 and the declarations made by the President of the Republic at the general conference, which is at the heart of the concerns raised by the Committee. The Committee further notes in this respect that the FPB declaration refers more generally to citizens' representations and not to workers. The additional allegations made by the complainants in February 2003, and as yet unanswered by the Government, concerning government favouritism towards the FPB and continuing acts of anti-union discrimination and government interference only reinforce these concerns.*
- 159.** *The other FPB communication dated 10 March 2003 raises issues in respect of one of the complainants in this case, the International Confederation of Free Trade Unions (ICFTU). The Committee would point out that the allegations presented in this case concerning government interference in the FPB elections were not only made by the ICFTU, but also by the other complainants, including regional organizations within the FPB structure. These complaints were made not against the trade union structure itself, but rather against the Government on the basis that its interference in this regard violated workers' rights to freedom of association and endangered the independence of the trade union movement.*

The direct accusations by the FPB against the ICFTU have no place before the Committee, whose task in this case is to determine whether the national legislation and practice complies with the provisions of Conventions Nos. 87 and 98 ratified by Belarus.

- 160.** *In the light of all of the above considerations, the Committee deplores the persistent failure of the Government to implement the Committee's recommendations and once again urges the Government to take the necessary steps as a matter of urgency to establish an independent investigation, having the confidence of all parties concerned, into the allegations of interference surrounding the elections of the Federation of Trade Unions of Belarus (FPB), as well as the elections of the Agricultural Sector Workers' Union (ASWU), the Brest Regional Association of Trade Unions and the Brest Regional Committee of Science and Education Unions, with the aim of rectifying any effects of this interference. The Committee strongly requests the Government to keep it informed of the results of these investigations.*
- 161.** *The Committee further regrets that the Government has not replied to any of the allegations set forth in the complainants' communications of February 2003 and which concern important acts of interference in the functioning and activities of a number of trade union organizations, as well as acts of anti-union discrimination at the workplace. In particular, the Committee notes with deep concern the allegations of a decision issued by the Ministry of Culture referring to the "orders" of the President of Belarus at the FPB special assembly implying the creation of a united Minsk municipal trade union organization of the employees of the cultural sphere. In this respect, the Committee must recall its previous conclusions in this case that certain declarations in the speech of the President of Belarus to the FPB Congress in September 2002 represented a clear attempt to transform the trade union movement into an instrument for the pursuance of political aims [see 329th Report, para. 275]. It would appear by the issuance of the abovementioned decision by the Ministry of Culture that, regrettably, the Government has not heeded the Committee's call to refrain from any further such attempts so that the trade union movement might act in full freedom and independence [see 329th Report, para. 281(d)].*
- 162.** *In light of the above, the Committee urges the Government to institute independent investigations into the claims that state and local authorities have acted in such a way as to promote the dissolution of both the MRTUECS and the BPAD and into the allegations of anti-union discrimination in respect of some members of these organizations and, if the allegations are proven to be true, to take all necessary measures to ensure that these organizations are protected from such interference in the future and that any acts of anti-union discrimination are redressed. The Committee requests the Government to reply in detail to these allegations and to keep it informed of the outcome of these investigations.*
- 163.** *The Committee further notes with regret the very serious allegations of interference in trade union internal affairs made by the Radio and Electronic Workers' Union (REWU) in its communication of 2 May 2003 and requests the Government to reply as a matter of urgency to the matters raised therein.*
- 164.** *As concerns the allegations of continuing favouritism in respect of the FPB in communications from several of the complainants in February 2003, the Committee recalls that, by according favourable or unfavourable treatment to a given organization as compared with others, a government may be able to influence the choice of workers as to the organization which they intend to join. In addition, a government which deliberately acts in this manner violates the principle laid down in Convention No. 87 that the public authorities shall refrain from any interference which would restrict the rights provided for in the Convention or impede their lawful exercise [see **Digest of decisions and principles of the Freedom of Association Committee**, 4th edition, para. 304]. The Committee*

requests the Government to reply in detail to these outstanding allegations so that it may examine these important questions in full knowledge of all the facts.

- 165.** *The Committee further regrets that the Government has not provided any information in respect of its previous request on the extent to which alternative organizations representing workers, such as those present in the complaint, participate in the various national tripartite bodies, nor has it replied to the allegation made by the Congress of Democratic Trade Unions (CDTU) that the FPB signed the general agreement in the fall of 2002 behind its back. The Committee would recall in this regard the importance, for the preservation of a country's social harmony, of regular consultations with employers' and workers' representatives and that such consultations should involve the whole trade union movement, irrespective of the philosophical or political beliefs of its leaders [see **Digest**, *op. cit.*, para. 924]. The Committee therefore urges the Government to make all efforts to ensure that the representative workers' organizations concerned may effectively participate in the various bodies established in the country for the promotion of social dialogue.*
- 166.** *As concerns the dismissal of three trade union leaders for refusal to work on their day off (unpaid voluntary labour, known as "subbotnik"), the Committee notes with regret that the Government has not indicated the measures taken to ensure their reinstatement, nor has it replied to the new allegations concerning the continued harassment of Mr. Evmenov in respect of his employment opportunities. The Committee urges the Government to take the necessary measures to ensure that Mr. Evgenov, Mr. Evmenov and Mr. Bourgov are reinstated in their posts with full compensation for any lost wages and benefits and requests the Government to provide the additional information requested so as to enable the Committee to examine the case in full knowledge of the facts. The Committee wishes to emphasize in this respect that repeated failure to provide the information requested by the Committee constitutes a serious obstacle to its work.*
- 167.** *Finally, the Committee notes with regret that the Government has not provided any additional information in respect of its outstanding recommendations concerning: the establishment of the regional trade union for workers at the "Integral" Research and Production Association and the disaffiliation of the primary trade union organization at the "Tsvetotron" plant in Brest from the branch union representing workers in the radio-electronics industry; the alleged refusal to employ the re-elected chairperson of the Free Trade Union of Metalworkers at the Minsk Automobile Plant, Mr. Marinich; the registration of the Belarusian Free Trade Union at the Khimvolokno State Production Amalgamation; and the need to amend Presidential Decree No. 8 so that workers' and employers' organizations may benefit freely, and without previous authorization, from the assistance which might be provided by international organizations for activities compatible with freedom of association, and Presidential Decree No. 11 so as to ensure that restrictions on pickets are limited to cases where the action ceases to be peaceful or results in a serious disturbance of public order and so that any sanctions imposed will be proportionate to the violation incurred. The Committee urges the Government to take the necessary measures to implement these recommendations as a matter of urgency and to provide the additional information requested so as to enable the Committee to examine the case in full knowledge of the facts. The Committee wishes to emphasize in this respect that repeated failure to provide the information requested by the Committee constitutes a serious obstacle to its work.*

The Committee's recommendations

- 168.** *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*

- (a) *The Committee once again urges the Government to establish independent investigations, having the confidence of all parties concerned, into the allegations of government interference in the elections of the Federation of Trade Unions of Belarus (FPB), the Agricultural Sector Workers' Union (ASWU), the Brest Regional Association of Trade Unions and the Brest Regional Committee of Science and Education Unions, with the aim of rectifying any effects of this interference. The Committee strongly requests the Government to keep it informed of the results of these investigations.*
- (b) *The Committee urges the Government to institute independent investigations into the claims that state and local authorities have acted in such a way as to promote the dissolution of the Belarusian Trade Union of Air Traffic Controllers (BPAD) and the Minsk Regional Trade Union Organization of Employees in the Cultural Sphere (MRTUECS) and into the allegations of anti-union discrimination in respect of some members of these organizations and, if the allegations are proven to be true to take all necessary measures to ensure that these organizations are protected from such interference in the future and that any acts of anti-union discrimination are redressed. The Committee requests the Government to reply in detail to these allegations and to keep it informed of the outcome of these investigations.*
- (c) *Noting with regret the very serious allegations of interference in trade union internal affairs made by the Radio and Electronic Workers' Union (REWU) in its communication of 2 May 2003, the Committee requests the Government to reply as a matter of urgency to the matter raised therein. The Committee further requests the Government to reply in detail to the allegations made in the complainants' communications of February 2003 concerning various acts of favouritism towards the FPB.*
- (d) *The Committee urges the Government to make all efforts to ensure that the representative workers' organizations concerned may effectively participate in the various bodies established in the country for the promotion of social dialogue.*
- (e) *Deploing the fact that the Government has taken no steps to implement its previous recommendations, the Committee once again urges it to:*
- (i) *take the necessary measures to ensure that Mr. Evgenov, Mr. Evmenov and Mr. Bourgov are reinstated in their posts with full compensation for any lost wages and benefits;*
 - (ii) *institute independent investigations into the allegations of anti-union tactics made in respect of the GPO "Khimvolokno" Free Trade Union and the Free Trade Union at the "Zenith" plant;*
 - (iii) *institute an independent investigation into the allegations of managerial pressure for the establishment of a regional trade union of electronics industry workers and for the affiliation of the Tsvetotron plant to the new regional union;*
 - (iv) *take the necessary steps for the registration of the Belarusian Free Trade Union at the Khimvolokno State Production Amalgamation and*

eliminate any remaining obstacles to trade union registration noted in its previous report;

- (v) *amend Presidential Decree No. 8 so that workers' and employers' organizations may benefit freely, and without previous authorization, from the assistance which might be provided by international organizations for activities compatible with freedom of association, and Presidential Decree No. 11 so as to ensure that restrictions on picketing and other demonstrations called by workers' or employers' organizations are limited to cases where the action ceases to be peaceful or results in a serious disturbance of public order and so that any sanctions imposed will be proportionate to the violation incurred;*
- (vi) *provide information on the alleged refusal to employ the re-elected chairperson of the Free Trade Union of Metalworkers at the Minsk Automobile Plant, Mr. Marinich.*

The Government is requested to provide all necessary information in respect of all the above matters so that the Committee may examine this case in full knowledge of the facts.

CASE NO. 2215

INTERIM REPORT

**Complaints against the Government of Chile
presented by
the Latin American Workers' Confederation (CLAT)**

Allegations: The complainant organization alleges an anti-union dismissal of a trade union official in the Pedro Pablo Castillo Castillo company who, despite administrative and judicial decisions for his reinstatement, at present is still not occupying his post, and anti-union activities against the Trade Union of the Sanitation Works Company of the Vth Region, ESVAL S.A., including attempted suborning of personnel through threats and dismissals; illegal confiscation of officials' work tools (telephone, computer); prohibition on performing their functions and delay in paying their remuneration.

169. The complaints are contained in communications from the Latin American Workers' Confederation (CLAT) of August and November 2002.

170. The Government sent its partial observations in a letter dated 2 January 2003.

171. Chile has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. The complainant's allegations

172. In its communication of August 2002, the Latin American Workers' Confederation (CLAT) alleges the anti-union dismissal of Erick Dusan Yapur Ruíz who had worked as a driver in the Pedro Pablo Castillo Castillo collective haulage and transport company since 1998 and was director of trade union No. 3 of the company. The complainant organization indicates that although on 3 June 2002, the First Labour Court in San Miguel ordered his reinstatement in his normal work, up to the time of the submission of the complaint, Mr. Yapur Ruíz had not been reinstated nor paid the corresponding remuneration. This situation persists despite pressure exercised by the National Confederation of Transport and Related Workers in Chile (CONATRATCH) on the Ministry of Public Works, Transport and Communications and the presence of inspectors in the workplace, who reported that Mr. Yapur Ruíz was denied access to the company's premises. The complainant organization maintains that this kind of dismissal is an attack on the right to work and freedom of association and finally requests that Mr. Yapur Ruíz be reinstated in his post.

173. In addition, in its communication of November 2002, the complainant organization alleges that according to information received from the Autonomous Confederation of Workers of Chile (CAT), serious incidents occurred against the Trade Union of the Sanitation Works Company of the Vth Region, ESVAL S.A., in particular against Mr. Aquiles Mercado, president of the union and other union officials. According to the complainant organization, the trade union has been subject to pressure and harassment by the company since 1996, when it was discovered that financial resources had been squandered, which seriously affected the capital, remuneration and legal shares in the company's profits. The trade union firmly opposed the privatization of the company and because of this stand attempts were made to suborn the personnel by threats and dismissals which succeeded in frightening the members of the trade union. Many of them, however, refused to be suborned. In addition, the officials' office equipment (telephone, computer) was illegally confiscated, they were prohibited from performing their functions and payment of their remuneration was delayed in order to frighten them and make them leave the union. The complainant organization adds that this attitude is unacceptable and reports that the company's majority shareholder is the British transnational corporation, Anglian Water Group.

B. The Government's reply

174. In its communication of 2 January 2003, the Government indicates that Mr. Erick Yapur Ruíz is the president of trade union No.3 of the company concerned and director of the National Confederation of Company and Inter-company Federations and Trade Unions of Land Transport and Related Workers of Chile (CONATRATCH). The Government states that on 16 October 2001, Mr. Yapur Ruíz was unlawfully dismissed, a fact verified and sanctioned by the competent labour inspectorate. Subsequently, the unit for the Defence of Freedom of Association of the Metropolitan Regional Labour Directorate prepared a judicial complaint of anti-union practices by the employer which was submitted to the San Miguel Court of Appeal. The Labour Court ordered the reinstatement of Mr. Yapur Ruíz on 10 June 2002 but this was not possible because Mr. Yapur Ruíz did not turn up. His reinstatement finally took place on 20 June, immediately after which the Regional Labour Directorate as plaintiff added the reinstatement order to the records of the case. On 25 June, the court handed down a judgement in which it found the enterprise Pedro Pablo

Castillo Castillo guilty of anti-union practices, namely the unlawful dismissal of a worker with trade union immunity and imposed a fine and the costs of the trial. Given that at the time when the judgement was handed down, the reinstatement had already taken place, the court did not rule on that aspect. The employer entered an appeal and application for annulment and the hearing of the case is at present pending.

175. The Government states that on 26 July 2002 the enterprise Pedro Pablo Castillo Castillo, having been notified of the matter, again dismissed Mr. Yapur Ruíz on the grounds that he was awaiting the result of the appeal. The employer was fined heavily for failing to comply with the reinstatement order and failure to pay in full the remuneration owed to the trade union official.

C. The Committee's conclusions

176. *As regards the alleged anti-union dismissal of Mr. Erick Dusan Yapur Ruíz, a driver in the Pedro Pablo Castillo Castillo collective haulage and transport company and director of trade union No. 3 of the company, the Committee observes that although the official was reinstated for a time in June 2002, at the time when the complaint was submitted, he was no longer in his post and had not been paid the related remuneration and, according to inspectors who visited the workplace, the official had been denied access to the company's premises.*
177. *The Committee observes that the Government confirms the facts indicated by the complainant that: Mr. Eric Yapur Ruíz is the president of trade union No. 3 of the company; he was unlawfully dismissed; and that at present he is still not in his post. The Committee also observes that the Government states that: (1) the matter was verified and sanctioned by the competent labour inspectorate; (2) the unit for the Defence of Freedom of Association of the Metropolitan Regional Labour Directorate submitted a judicial complaint of anti-union practices by the employer; (3) the Labour Court ordered his reinstatement which could not take place on the date envisaged because Mr. Yapur Ruíz did not turn up; (4) the reinstatement finally took place and immediately thereafter the Regional Labour Directorate added the reinstatement order to the records of the case; (5) the court found the enterprise Pedro Pablo Castillo Castillo guilty of anti-union practices consisting of the unlawful dismissal of a worker with trade union immunity and imposed a fine and the costs of the trial; (6) the ruling did not mention reinstatement since at the time, reinstatement had already taken place; (7) the ruling was appealed by the employer and the hearing of the case is now pending; (8) on 26 July 2002, the enterprise Pedro Pablo Castillo Castillo, having been notified of the ruling, again dismissed Mr. Yapur Ruíz from his functions on the grounds that he was awaiting the result of the appeal; and (9) the employer was heavily fined for failure to comply with the reinstatement order and pay in full the remuneration owed to Mr. Yapur Ruíz.*
178. *The Committee recalls that the basic regulations that exist in the national legislation prohibiting acts of anti-union discrimination are inadequate when they are not accompanied by procedures to ensure that effective protection against such acts is guaranteed [see **Digest of decisions and principles of the Freedom of Association Committee**, 4th edition, para. 739]. In the circumstances of this case, the Committee requests the Government to adopt measures to ensure that Mr. Yapur Ruíz is reinstated in his place of work at least until the appeal and application for annulment are decided by the court. The Committee also requests the Government to keep it informed of developments.*

179. *The Committee also observes that the complainant organization alleges that serious incidents occurred against the Trade Union of the Sanitation Works Company of the Vth Region, ESVAL S.A., in particular against Mr. Aquiles Mercado, president of the union and other union officials, and that the trade union has been subject to pressure and harassment by the company since 1996. According to the complainant organization, as the trade union firmly opposed the privatization of the company; attempts were made to suborn the personnel by threats and dismissals; the officials' office equipment (telephone, computer) was illegally confiscated; and they were prohibited from performing their functions and payment of their remuneration was delayed in order to frighten them and make them leave the union. The Committee notes with regret that the Government has not communicated its observations in this respect and requests it to send them without delay in order to examine these allegations in full knowledge of the facts.*

The Committee's recommendations

180. *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*

- (a) In the circumstances of this case, the Committee requests the Government to adopt the necessary measures to ensure that Mr. Yapur Ruíz is reinstated in his place of work at least until the appeals lodged in this case are decided by the court. The Committee also requests the Government to keep it informed of developments.*
- (b) As regards the serious allegations concerning the Trade Union of the Sanitation Works Company of the Vth Region, ESVAL S.A., the Committee notes with regret that the Government has not communicated its observations in this respect and requests it to send them without delay in order to examine these allegations in full knowledge of the facts.*

CASE NO. 2217

INTERIM REPORT

**Complaints against the Government of Chile
presented by**

- **the Chilean General Confederation of Workers (CGT) and**
- **the National Union of Metal, Communication and Energy Workers
and Related Activities**

Allegations: The complainant organizations allege that various anti-union acts have been committed at the companies Sopraval S.A. (acts of intimidation and violence against workers on strike; dismissal of union officers and members; and interference in union activities), Cecinas San Jorge (creation of a trade union biased towards the company and dismissal of union officers), Electroerosión Japax Chile S.A. (anti-union dismissals during negotiation of a collective contract) and in two bakery companies (dismissal of union officers).

- 181.** The complaints are contained in a communication from the Chilean General Confederation of Workers (CGT) dated August 2002 and in a communication from the National Union of Metal, Communication and Energy Workers and Related Activities, dated 5 September 2002.
- 182.** The Government sent its observations in a communication dated 30 January 2003.
- 183.** Chile has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. The complainants' allegations

- 184.** In its communication of August 2002, the Chilean General Confederation of Workers (CGT) alleges that acts of anti-union discrimination and physical aggression have been carried out against union officers and members from various companies. Specifically, the CGT makes the following allegations:
- (i) *Sopraval S.A.* The complainant alleges that, beginning in 1999, the company carried out the following acts against the union and its members: (1) in May 1999 it offered maintenance workers a pay rise if they resigned from the union, which led to the resignation of all members in that sector; (2) in July 1999 it dismissed Mr. José Figueroa for standing as a union officer; (3) in August 1999 six workers were dismissed from the rendering section for joining the union; (4) in August 1999 the company obstructed the awarding of union permits, it has not deducted 0.75 per cent from the salary of workers benefiting from the collective contract, and it has announced that it will not make deductions from union loans to workers, thus causing financial damage to the union; (5) on 14 September 1999 the company dismissed 23

workers who were union members, on the grounds of company necessity; (6) in October 1999 it put pressure on workers – union members and non-members – to accept a collective agreement with a 50 per cent pay cut and also offered loans to workers who would resign from the union; (7) in November 1999 it dismissed 60 union members who had participated in a protest in the Senate against the law on severance pay related to years of service; (8) in January 2000, 11 union members were shut in and forced to sign union resignations; (9) in March 2000 the process of collective negotiation began and the company offered the same conditions of employment to both union members and non-members and in consequence, on 1 and 2 May 2000, the union declared a legal strike and the company used the police to intimidate strikers and to help strike-breakers cross picket lines. On this occasion the police wounded and detained workers assembled outside the company's buildings; (10) the president of the union, Mr. Orellana Ramírez, was threatened with death during the strike; (11) after the strike the company began a judicial process against Mr. Orellana Ramírez in order to lift his trade union immunity and dismiss him and as of May 2000 ceased to pay his salary, also withholding the documents necessary for payment of sick leave; and (12) in December 2000 in an attempt to dismiss the president of the union, the company encouraged a meeting to be held to vote for censure of the leadership. At the meeting, held on 11 December 2000, such censure was put to the vote and passed in an irregular manner, given that a judicial action in this respect had already begun. Lastly, the complainant alleges that, although there was already an executive committee in place, elections for a new executive were held in an irregular manner (in the presence of a municipal secretary, who does not have the authority to oversee a union election).

- (ii) *Cecinas San Jorge S.A.* The CGT alleges that, after the creation of the Cecinas San Jorge Inter-company Union on 10 October 2001, the management: (1) promoted the formation of another union and, having gathered its workers together on its premises, made them join this second union under threat of dismissal; (2) on 22 October 2001 it dismissed the president of the union, Mr. Alvaro Zamorano, and prohibited him from entering company premises; (3) on 25 October 2001 it dismissed nine union members during negotiation of a collective contract; and (4) on 30 October 2001, after the Cecinas San Jorge Company Union had been formed and Mr. Zamorano elected president thereof, the company began slander proceedings against him for having stated that the company had offered money to workers to resign from the company's union.
- (iii) *Bakery companies.* (1) On 1 July 2001, the company of Mr. Manuel Jesús Carreño Díaz dismissed without cause Mr. Raúl Vargas Verdejo, president of the Federation of Bread Workers and president of the Inter-company Union of the Bread Industry and Similar Sectors; and (2) the company of Mr. Manuel Regueiro dismissed, without having previously obtained judicial authorization, Mr. Juan Aros Donoso, officer of the Federation of Bread Workers of the 5th Region and president of the Viña del Mar Inter-company Union of the Bread Industry.

185. In its communication dated 5 September 2002, the National Union of Metal, Communication and Energy Workers and Related Activities alleges anti-union dismissals of workers enjoying union protection (special protection for workers involved in the process of collective negotiation) at Electroerosión Japax Chile S.A. The complainant specifically alleges that, after asking the company (on 2 July 2002) for information, with a view to submitting their collective bargaining demands, three workers enjoying trade union immunity were dismissed on 3 and 4 July. Subsequently, on 8 July, a folder of petitions was presented and the company dismissed eight more workers, also under trade union immunity. The complainant adds that the labour inspectorate was informed of these anti-union dismissals, that the inspectorate established the facts on 10 and 12 July 2002 and

that, on both occasions, the company refused to reinstate the workers. Lastly, the complainant notes that in August 2002 it took its case to the judicial authority, which took more than a month to set a date for the parties to meet (4 October 2002).

B. The Government's reply

- 186.** In its communication dated 30 January 2003, the Government states, with reference to the complaint relating to the union founded at Cecinas San Jorge S.A., that according to the registers there are four unions at the company in question: the Cecinas San Jorge S.A. Company Union, the National Union of Vendors and other workers of Cecinas San Jorge S.A., the "Cecinas San Jorge S.A." Company Workers' Union, and the "Cecinas San Jorge S.A. and Other Workers" Inter-company Workers' Union. Mr. Alvaro Zamorano Miranda was a founding member of both the "Cecinas San Jorge S.A." Company Workers' Union, an organization established on 27 October 2001, and the "Cecinas San Jorge S.A. and Other Workers" Inter-company Workers' Union, established 10 October 2001, and was elected president of both organizations. In this respect, and according to the same registers, he resigned from the post of president of the organizations on 12 December 2001 and 26 October 2001 respectively.
- 187.** The Government states, in accordance with information received from the labour inspectorate, that, at the point when the Inter-company Union was established, there were indeed problems with the company participating in promoting a parallel union; in this context, the company terminated the contract of employment of Mr. Zamorano, the president of the union, on 22 October 2001, a dismissal which he then challenged, giving rise to a fine of ten months' salary being imposed for not providing the work agreed in the contract of employment, as laid down in resolution No. 13.11.3227.01.006-1 dated 25 October 2001.
- 188.** The Government reports that, on 5 December 2001, a visit was carried out to the company, requiring the reinstatement of Mr. Zamorano, which the company declined to accept. Subsequently, a commission was established to investigate the complaints of anti-union practices, specifically the company's involvement in setting up a parallel union. The investigation enabled the conclusion to be drawn that there had indeed been some intervention on the part of the company in calling its workers together for a meeting on its premises to pressure them into joining this union. The meeting, according to the investigation, was organized and chaired by the company's legal representative. Later, the union biased towards the company quickly signed a collective contract, to the detriment of the other organizations. The reports drawn up by the Communal Labour Inspectorate of Santiago Poniente are being examined so that the case can be taken before the ordinary justice tribunals, in accordance with the applicable legal provisions.
- 189.** With regard to the allegations relating to the bakery companies of the 5th Region, the Government states that the Regional Labour Directorate of the 5th Region has reported on the situation of the officers in question: (a) Mr. Manuel Jesús Carreño Díaz, president of the Quintero Inter-company Union of the Bread Industry and Similar Sectors and director of the Federation of Workers of the Bread Industry and others brought a complaint of illegal separation of functions before the labour inspectorate on 3 July 2001; after several inspection visits resulting in an equal number of sanctions against the employer, Mr. Raúl Vargas, he reinstated the officer in question on 25 July 2001 with payment of the salary owing; and (b) with regard to Mr. Juan Aros Donoso, president of the Viña del Mar Inter-company Union of the Bread Industry, the labour inspectorate reported that no complaint had been brought against the employer, Mr. Manuel Regueiro, for the alleged dismissal.
- 190.** Regarding the allegations relating to Electroerosión Japax Chile S.A., the Government reports that, in accordance with Labour Directorate precedent, the company's workers

brought a complaint before the Santiago Provincial Labour Inspectorate about the dismissal of nine workers enjoying trade union immunity, as a result of the process of collective negotiation that took place.

- 191.** The Government states that the fines appropriate to the illegal dismissal of workers (two fines of 20 months' salary each) have been sanctioned and applied. With regard to anti-union practices, the Government adds that on 16 September 2002 the labour inspectorate, following the inspection and analysis process in strict accordance with the instructions in force, presented before the 6th Labour Court of Santiago a complaint of illegal separation of nine workers due to the collective negotiation in which they were involved (inter-company negotiations subject to the regulations contained in section 334bis of the Labour Code). The union leadership later informed the labour inspectorate that on 7 August 2002 it had complained of the same anti-union practice to the 8th Labour Court of Santiago; on 4 February 2002 the labour inspectorate became involved in the case.
- 192.** The Government reports that, on 25 October 2002, the 8th Labour Court gave its ruling, rejecting the complaint of anti-union practices, with clear legal errors, having agreed the (legally arguable) alternative that the complainants appeal the decision. In the case heard by the 6th Court, the company claimed *litispence* (the case was being heard by another court at the same time), leaving a previous resolution ordering the reinstatement of the workers unimplemented. The company was notified of this on 8 November 2002 but declined to act. Lastly, the Government notes that the ruling of the 8th Labour Court is still pending (it has not been implemented), meaning that the same is true of the resolution which applies in the case of the alleged *litispence* in the 6th Labour Court. According to the Government, the Labour Directorate has carried out its task rigorously with the aim of reversing the conclusions of the 8th Labour Court in the aforementioned ruling.
- 193.** With regard to the allegations relating to Sopraval S.A., the Government states that, regarding the alleged hostile behaviour and threats to freedom of association, the labour inspector responsible for the case interviewed Mr. Cristián Feliú Briones, secretary of the "Sergio Pincheira" Sopraval S.A. Company Union, and Mr. Leonardo Saldaño Orrego, president of the same union since 5 January 2001, who declared they had no proof of the events having taken place. The labour services have been made aware that the La Calera Court of Letters is examining a case of anti-union practices (Case No. 10.972-2000).
- 194.** With regard to the process of collective negotiation which took place in May 2000, the Government states that the legal strike agreed in the process of collective negotiation between Sopraval S.A. and the "Sergio Pincheira" Workers' Union began on 2 May 2000 and involved 113 workers at the manufacturing plant, where 409 out of a total of 889 workers are employed. On the same day (2 May 2000) an inspection visit was made to the company by an official from the Quillota Regional Labour Inspectorate in order to confirm the start of the strike, which was then described in the resulting inspection report. Likewise, the Inspectorate analysed the content and chances of the company's latest offer and concluded that it was not legally proper to contract replacement workers, since the necessary minimum conditions for this to happen were not present. For this reason, any form or mechanism of replacement would constitute an infringement of section 381 of the Labour Code.
- 195.** The Government adds that between 4 and 12 May five inspection visits were made to the company, some at the request of the negotiating committee and others arranged by the authorities of the labour services, in order to prevent possible infringements of section 381, in that the effective replacement of striking workers could have occurred despite the company not being legally authorized to do this. It was not possible during these visits to prove that Sopraval S.A. had contracted personnel to replace the striking workers and, as such, neither was it possible to establish a potential infringement of section 381 of the

Labour Code. On 1 June 2000, 15 legally striking workers returned to their jobs, in accordance with the same section 381 of the Labour Code.

- 196.** With regard to the actions of the Chilean police during the process of collective negotiation and the legal strike, the Government states that it must be borne in mind that since 1992 the Labour Directorate has maintained permanent coordination with the police force in order to prevent the occurrence of events such as those alleged by workers of the Sopraval company. As of 1996 all regional labour directorates have received instructions, in Service Order No. 7, to establish a system of permanent coordination with the various police units in order to ensure that the development of the strike process, as well as any other type of labour conflict, is properly supervised by both institutions. This being the case, after the complaint about the actions of the police on 2 May 2000, the first day of the strike, had been received, a meeting held in the Quillota Labour Inspectorate was attended by the Governor of the Province, who promised to request a report and ensure different conduct on the part of the forces of law and order. All this aims to allow workers to exercise their rights freely and not be harassed or prevented from expressing their opinions by any institution of the State.
- 197.** Lastly, the Government states that, on 11 December 2000, before the Public Notary, Mr. Moisés Corvalán Vera, the vote to censure the leadership of the “Sergio Pincheira” Sopraval S.A. Company Union took place with 57 members voting, 53 in favour of censure and 4 against. On 5 January 2001, before the acting lawyer-secretary of the 1st Municipality of La Calera, Mr. Jorge Héctor Torres Jaña, a new leadership of the “Sergio Pincheira” Sopraval S.A. Company Union was elected, consisting of Mr. Heiter Leonardo Saldaño Orrego (president), Mr. Juan Olmos Fuenzalida (secretary) and Mr. Pedro Tapia Céspedes (treasurer).

C. The Committee’s conclusions

- 198.** *The Committee observes that, in the present case, the complainants allege that various acts of anti-union discrimination have taken place at Sopraval S.A., Cecinas San Jorge, Electroerosión Japax Chile S.A. and two bakery companies.*

Sopraval S.A.

- 199.** *With regard to the allegation relating to the use of strike-breakers during the legal strike which took place at the company from 2 May 2000, the Committee takes note of the Government’s statement that the administrative authority undertook five inspection visits in this respect and was unable to establish that the company had contracted personnel to replace the striking workers.*
- 200.** *With regard to the allegations of acts of intimidation and violence by the police during a gathering of striking workers outside the company’s buildings (resulting in workers being injured and detained), the Committee takes note of the Government’s statements that: (1) since 1992 the Labour Directorate has maintained permanent coordination with the police force in order to prevent the occurrence of events such as those figuring in the complaint; (2) as of 1996 all regional labour directorates have received instructions in a service order to establish a system of permanent coordination with the various police units in order to ensure that the development of the strike process is properly supervised by both institutions; (3) after the complaint about the actions of the police on 2 May 2000 during the strike had been received, the Governor of the Province promised to request a report and ensure different conduct on the part of the forces of law and order; and (4) the measures adopted by the Government are aimed at allowing workers to exercise their rights freely and not be harassed or prevented from expressing their opinions by any*

*institution of the State. In this respect, the Committee recalls that “in cases in which the dispersal of public meetings or demonstrations by the police for reasons of public order or other similar reasons has involved loss of life or serious injury, the Committee has attached special importance to the circumstances being fully investigated immediately through an independent inquiry and to a regular legal procedure being followed to determine the justification for the action taken by the police and to determine responsibilities” and that “the arrest and detention of trade unionists without any charges being laid or court warrants being issued constitutes a serious violation of trade union rights” [see **Digest of decisions and principles of the Freedom of Association Committee**, 4th edition, 1996, paras. 148 and 79]. In this regard, the Committee requests the Government to send the report which the Governor of the Province promised to request and to ensure that investigations begin into the allegations and, if appropriate, that the sanctions provided for in legislation are applied.*

- 201.** *With regard to the allegations relating to company interference in holding a meeting to vote for censure of the union leadership, the Committee takes note of the Government’s statement that the censure vote took place on 11 December 2000 before a public notary and that 57 members voted, 53 in favour of censure and 4 against. The Committee observes that the complainant reports that a judicial action in this regard has begun. In these circumstances, the Committee requests the Government and the complainant organization to keep it informed of the final decision of the judicial authority.*
- 202.** *With regard to the allegation relating to irregularities which occurred in the election of a new union leadership, the Committee takes note of the Government’s statement that on 5 January 2001 a new union leadership was elected before the acting secretary of the Municipality of La Calera. In this regard, the Committee recalls that on numerous occasions it has stated that “when internal disputes arise in a trade union organization they should be resolved by the persons concerned (for example, by a vote), by appointing an independent mediator with the agreement of the parties concerned, or by intervention of the judicial authorities” [see **Digest**, op. cit., para. 971].*
- 203.** *Finally, the Committee regrets that the Government has not sent its observations on the rest of the allegations of acts which might have been committed on the part of Sopralav and which follow: (1) in May 1999 it offered maintenance workers a pay rise if they resigned from the union, which led to the resignation of all members in that sector; (2) in July 1999 it dismissed Mr. José Figueroa for standing as a union officer; (3) in August 1999 six workers were dismissed from the rendering section for joining the union; (4) in August 1999 the company obstructed the awarding of union permits, it has not deducted 0.75 per cent from the salary of workers benefiting from the collective contract, and it has announced that it will not make deductions from union loans to workers, thus causing financial damage to the union; (5) on 14 September 1999 the company dismissed 23 workers who were union members on the grounds of the needs of the company; (6) in October 1999 it put pressure on workers – some union members, some not – to accept a collective agreement with a 50 per cent pay cut and also offered loans to workers who would resign from the union; (7) in November 1999 it dismissed 60 union members who had participated in a protest in the Senate against the law on severance pay related to years of service; (8) in January 2000, 11 union members were shut in and forced to sign union resignations; (9) the president of the union, Mr. Orellana Ramírez, was threatened with death during the strike which began on 1 May; (10) after the strike the company began a judicial process against Mr. Orellana Ramírez in order to lift his trade union immunity and dismiss him and as of May 2000 ceased to pay his salary, also withholding the documents necessary for payment of sick leave. In these circumstances the Committee requests the Government to send its observations in this respect and inform it as to whether the judicial proceedings for anti-union practices mentioned generally in its reply refer to any of the pending allegations.*

Cecinas San Jorge S.A.

204. *With regard to the company's alleged promotion of a union, the Committee takes note of the Government's statement that an investigation was carried out which determined that the company had indeed organized and chaired a meeting of workers to pressure them into forming a union, and that the reports drawn up by the Communal Labour Inspectorate of Santiago are being examined so that the case can be taken before the ordinary justice tribunals, in accordance with the applicable legal provisions. In this regard, the Committee recalls that Article 2 of Convention No. 98 establishes the total independence of workers' organizations with respect to employers and that promoting the establishment of a workers' organization on the part of an employer constitutes a serious violation of the Convention. In these circumstances, the Committee requests the Government to take measures to ensure that such acts are not repeated in the future, as well as to inform it of the outcome of any judicial action which the administrative labour authority brings before the judicial authority.*
205. *The Committee also observes that the Government reports that the union which was formed with a bias towards the company quickly signed a collective contract to the detriment of the other union organizations. In this regard, the Committee recalls that, taking into account the importance of the independence of the parties in collective bargaining, negotiations should not be conducted on behalf of employees or their organizations by bargaining representatives appointed by or under the domination of employers or their organizations [see **Digest**, op. cit., paras. 771 and 789]. This being the case, the Committee requests the Government to take measures ensuring that collective negotiation at Cecinas San Jorge takes place with the workers' organizations which have been freely formed by the workers, as well as examining the legality of the collective agreement with the union which the Government describes as "biased" towards the company.*
206. *With regard to the allegation relating to the dismissal of Mr. Alvaro Zamorano, president of the Cecinas San Jorge Inter-company Union and the Cecinas San Jorge Company Union, the Committee observes that the Government reports that: (1) in the context of the company's participation in the formation of a new union Mr. Alvaro Zamorano's contract of employment was terminated on 22 October 2001; and (2) the administrative authority imposed a fine of ten months' minimum salary on the company for not providing the work agreed in the contract of employment and on 5 December 2001 requested the company to reinstate the union officer in question, without success. In this regard, the Committee recalls that:*

*... one of the fundamental principles of freedom of association is that workers should enjoy adequate protection against all acts of anti-union discrimination in respect of their employment, such as dismissal, demotion, transfer or other prejudicial measures. This protection is particularly desirable in the case of trade union officials because, in order to be able to perform their trade union duties in full independence, they should have a guarantee that they will not be prejudiced on account of the mandate which they hold from their trade unions. The Committee has considered that the guarantee of such protection in the case of trade union officials is also necessary in order to ensure that effect is given to the fundamental principle that workers' organizations shall have the right to elect their representatives in full freedom [see **Digest**, op. cit., para. 724].*

This being the case, the Committee requests the Government to make renewed efforts with the company to secure the reinstatement of the dismissed union leader and to take measures to avoid the repetition of such acts of anti-union discrimination. The Committee requests the Government to keep it informed in this respect.

207. *Lastly, the Committee regrets to observe that the Government has not sent its observations on the other allegations, according to which the company dismissed nine union members during negotiation of a collective contract on 25 October 2001 and on 30 October 2001 initiated slander proceedings against union officer Mr. Alvaro Zamorano for having stated that the company had offered money to workers to resign from the union. The Committee requests the Government to communicate its observations in this respect.*

Bakery companies

208. *With regard to the alleged dismissal without cause of Mr. Raúl Vargas Verdejo, president of the Federation of Bread Workers and president of the Inter-company Union of the Bread Industry on 1 July 2001 from the company of Mr. Manuel Jesús Carreño Díaz, the Committee takes note of the Government's statement that the administrative authority imposed various sanctions on the employer and that finally the officer in question was reinstated, with the payment of salary owing.*

209. *With regard to the dismissal, without having previously obtained judicial authorization, of Mr. Juan Aros Donoso, officer of the Federation of Bread Workers of the 5th Region and president of the Viña del Mar Inter-company Union of the Bread Industry, from the company of Mr. Manuel Regueiro, the Committee takes note of the Government's statement that there has been no complaint in this respect. This being the case, the Committee requests the Government to take measures to investigate whether the dismissal in question took place and, if so, to inform it of the specific facts behind it. The Committee requests the Government to keep it informed in this respect.*

Electroerosión Japax Chile S.A.

210. *With regard to the alleged dismissal of nine workers enjoying trade union immunity between 3 and 8 July 2002, during the start of the process of negotiating a folder of petitions, the Committee takes note of the Government's statements that: (1) the administrative authority imposed two fines of 20 months' salary each on the company for the dismissals in question and brought a complaint before the judicial authority for illegal separation of workers enjoying trade union immunity stemming from collective negotiation (the complainant also brought a complaint before another court in this respect); (2) the complaint presented by the complainant was rejected, with a verdict which showed clear legal errors; (3) as regards the complaint presented by the administrative authority, the company claimed **litispence** and therefore a reinstatement resolution which had been given was left unimplemented; and (4) the judicial authority now has to decide in the matter of the claim of **litispence** made. In this regard, the Committee recalls that "the right of petition is a legitimate activity of trade union organizations and persons who sign such trade union petitions should not be reprimanded or punished for this type of activity" [see **Digest**, op. cit., para. 719]. The Committee requests the Government to send it a copy of the final judicial ruling on these dismissals.*

The Committee's recommendations

211. *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*

Sopraval S.A.

(a) *With regard to the allegations of acts of intimidation and violence by the police during a gathering of striking workers outside the company's*

buildings on 1 and 2 May 2000 (resulting in workers being injured and detained), the Committee requests the Government to send it the report which the Governor of the Province promised to request and to ensure that investigations begin into the allegations and, if appropriate, that the sanctions provided for in legislation are applied.

- (b) With regard to allegations relating to company interference in holding a meeting to vote for censure of the union leadership, the Committee requests the Government and the complainant organization to keep it informed of the final decision of the judicial authority in this respect.*
- (c) With regard to the rest of the allegations of acts which might have been committed on the part of Sopraval (allegations which are mentioned in the conclusions, last paragraph of the section on the enterprise in question), the Committee requests the Government to send its observations in this respect and inform it as to whether the judicial proceedings for anti-union practices mentioned generally in its reply refer to any of the pending allegations.*

Cecinas San Jorge S.A.

- (d) With regard to the company's alleged promotion of a union, the Committee requests the Government to take measures to ensure that such acts are not repeated in the future, as well as to inform it of the outcome of any judicial action which the administrative labour authority brings before the judicial authority.*
- (e) The Committee requests the Government to take measures ensuring that collective negotiation at Cecinas San Jorge S.A. takes place with the workers' organizations which have been freely formed by the workers, as well as examining the legality of the collective contract with the union which the Government describes as "biased" towards the company.*
- (f) With regard to the allegation relating to the dismissal of Mr. Alvaro Zamorano, president of the Cecinas San Jorge Inter-company Union and the Cecinas San Jorge Company Union, the Committee requests the Government to make renewed efforts with the company to secure the reinstatement of the dismissed union leader and to take measures to avoid the repetition of such acts of anti-union discrimination. The Committee requests the Government to keep it informed in this respect.*
- (g) The Committee requests the Government to send its observations on the allegations according to which the company dismissed nine union members during negotiation of a collective contract on 25 October 2001 and on 30 October 2001 began slander proceedings against union officer Mr. Alvaro Zamorano for having stated that the company had offered money to workers to resign from the union.*

Bakery companies

- (h) With regard to the dismissal, without having previously obtained judicial authorization, of Mr. Juan Aros Donoso, officer of the Federation of Bread Workers of the 5th Region and president of the Viña del Mar Inter-company*

Union of the Bread Industry, from the company of Mr. Manuel Regueiro, the Committee requests the Government to take measures to investigate whether the dismissal in question took place and, if so, to inform it of the specific facts behind it. The Committee requests the Government to keep it informed in this respect.

Electroerosión Japax Chile S.A.

- (i) *With regard to the alleged dismissal of nine workers enjoying union protection between 3 and 8 July 2002, during the start of the process of negotiating a folder of petitions, the Committee requests the Government to send it a copy of the final judicial ruling on these dismissals.*

CASE NO. 1787

INTERIM REPORT

**Complaint against the Government of Colombia
presented by**

- **the International Confederation of Free Trade Unions (ICFTU)**
- **the Latin American Central of Workers (CLAT)**
- **the World Federation of Trade Unions (WFTU)**
- **the Single Confederation of Workers of Colombia (CUT)**
- **the General Confederation of Democratic Workers (CGTD)**
- **the Confederation of Workers of Colombia (CTC)**
- **the Trade Union Association of Civil Servants of the Ministry of Defence, Armed Forces, National Police and Related Bodies (ASODEFENSA)**
- **the Petroleum Industry Workers' Trade Union (USO) and**
- **the World Confederation of Labour (WCL) and others**

Allegations: The complainant organizations allege murders, abductions, assaults, death threats and other acts of violence against trade union officials and members. The complainant organizations also allege that the Government is not adopting the necessary measures to put an end to this serious situation of impunity.

212. The Committee last examined this case at its March 2003 meeting [see 330th Report, paras. 468-506]. The International Confederation of Free Trade Unions (ICFTU) sent new allegations in communications dated 27 February and 11 March 2003, the World Federation of Trade Unions (WFTU), in communications dated 27 January, 3 and 27 February, 15 March and 10 April 2003. The Colombian Federation of Teachers (FECODE) sent new allegations in a communication dated 27 March 2003. The Single Confederation of Workers of Colombia (CUT), the General Confederation of Democratic Workers (CGTD) and the Confederation of Workers of Colombia (CTC) sent a joint communication dated 28 March 2003.

213. The Government sent its observations in communications dated 29 April and 2 May 2003.

214. Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

215. At its March 2003 meeting, the Committee made the following recommendations on the allegations that were still pending which, for the most part, referred to acts of violence against trade union members and acts of anti-union discrimination [see 330th Report, para. 506]:

- (a) observing the comprehensive nature of the Government's response, as well as the fact that the climate of violence affects all sectors of society, the Committee nevertheless notes with the utmost concern the extreme gravity of the complaints and regrets that it is bound to observe that, since the last examination of the case, there have been complaints of 11 murders, two abductions, one attempted murder and 15 threats. Once again, the Committee reiterates that freedom of association can only be exercised in conditions in which fundamental human rights and, in particular those relating to human life and personal safety, are fully respected and guaranteed;
- (b) the Committee once again urges the Government to do everything in its power to achieve verifiable results in dismantling the paramilitary groups and other violent revolutionary groups;
- (c) the Committee requests the Government to take measures to ensure that the investigations cover all the alleged acts of violence and to ensure that the investigations make significant progress with a view to punishing the guilty parties, and urges the Government to continue to send its observations on progress made in investigations already begun (Annex II) and to take measures to ensure that investigations are begun without delay into the other murders, abductions, disappearances, attempted murders and threats referred to in Annex I, as well as those mentioned in the section on "New allegations" in the present report;
- (d) the Committee requests the complainants to send the information necessary to clarify the trade union status of those victims who the Government claims do not possess such status;
- (e) the Committee requests the Government to continue to increase the protection of all trade unionists who are at risk and to keep it informed of the development of the protection programme;
- (f) the Committee requests the Government to continue to keep it informed of the evolution of the "Working Plan of the Inter-Institutional Committee for the Prevention of Violations and the Protection of Workers' Human Rights";
- (g) with respect to the allegations by the ICFTU on threats against and detention of many trade union officials for taking part in the strike on 16 September 2002, the Committee urges the Government to take measures to investigate these complaints without delay and, if it is found that the detentions were for legitimate trade union activities, that those concerned should immediately be released if they are still in detention. The Committee requests the Government to keep it informed in this respect;
- (h) the Committee deplores that the Government did not implement its previous recommendations with respect to impunity. In order to combat impunity more effectively and address the causes of acts of violence against trade unions adequately, the Committee requests the Government to inform it of the intensity of acts of violence against trade unionists in each industrial sector and each region;
- (i) as concerns the recent communication of the ICFTU dated 3 February 2003, the Committee requests the Government to send its observations on the matters raised therein without delay;

- (j) with regard to the question of the Fact-Finding and Conciliation Commission, the Committee recalls the recommendation made at its November 2002 session.

B. New allegations

216. The complainants presented the following allegations.

Murders

- (1) Darwin Salcedo, member of ADUCESAR, on 28 January 2000, in the Department of César;
- (2) Carlos Julio Vega Ríos, member of ADUCESAR, on 5 March 2000;
- (3) Florentino Suárez Betancourt, member of ADIH, on 7 May 2000, in the Department of Antioquia;
- (4) Jesús Antonio Posada Marín, member of ADIDA, on 11 May 2000;
- (5) Nelson Romero Romero, member of ADEM, on 7 June 2000;
- (6) Reynaldo Mora Gómez, member of SIMATOL, on 14 June 2000, in San Antonio, Department of Tolima;
- (7) Hernando Portillo Moreno, member of ASINORT, on 17 June 2000, in Ocaña, Department of North Santander;
- (8) María Meza Pabón, member of EDUMAG, in 11 August 2000, in Pivijay, Department of Magdalena;
- (9) Luis Angel Ramos Mesa, member of ADIDA, on 27 October 2000, in Granada, Antioquia;
- (10) José Orlando López Gil, member of ADIDA, on 3 November 2000 in Guatapé, Antioquia;
- (11) Edilberto Arce Mosquera, member of ADIDA, on 11 November 2000, in Yarumal, Department of Antioquia;
- (12) Javier Aníbal Amaya Quiceno, member of ADIDA, on 11 November 2000, in San Rafael, Antioquia;
- (13) Jairo Germán Delgado Ordóñez, member of SIMANA, on 13 November 2000, in Linares, Department of Nariño;
- (14) Dionila Vitonas Chilueso, member of SUTEV, on 8 December 2000, in Florida, Department of Valle;
- (15) Alirio Vargas Sepúlveda, member of FECODE, on 23 March 2001, in the Department of Antioquia;
- (16) Faustino Antonio Barrios Barrios, member of ADEA, on 18 January 2002, in Malambo, Department of Atlántico;

- (17) Gabriel Enrique Quintana Ortiz, member of SUDEB, on 25 January 2002, in San Estanislao, Department of Bolívar;
- (18) Carlos Miguel Padilla Ruiz, member of EDUMAG, on 29 January 2002, in Plato, Department of Magdalena;
- (19) Avila Castaño Nelly, member of AICA, on 1 February 2002, in Milán, Department of Caquetá;
- (20) Marco Antonio Salazar, member of SIMANA, on 7 February 2002, in the Department of Nariño;
- (21) Mauricio Angarita, member of ASINORT, on 11 February 2002, in Cúcuta, North Santander;
- (22) Cristina Echeverri Pérez, member of EDUCAL, on 15 February 2002, in Manizales, Department of Caldas;
- (23) Francisco Sarmiento Yepes, member of ADES, on 16 February 2002, in Sincelejo, Department of Sucre;
- (24) Rubén Darío Campuzano, member of ADIDA, on 16 February 2002, in the Department of Antioquia;
- (25) Barquel Ríos Mena, member of ADIDA, on 18 February 2002, in San Carlos, Department of Antioquia;
- (26) Castaño Edison de Jesús, member of ADIDA, on 25 February 2002, in Medellín;
- (27) Wilfredo Quintero Amariles, member of ADIDA, on 25 February 2002, in Medellín;
- (28) Manuel Alberto Montanez Buitrago, member of ASINORT, on 25 February 2002, in El Tarra, Department of North Santander;
- (29) Vélez Correa Carlos Emilio, member of ADIDA, on 9 March 2002, in San Antonio de Prado, Antioquia;
- (30) José Orlando Céspedes García, member of ASEDAR, on 24 March 2002, in TAME, Department of Arauca;
- (31) Carlle Oscar, member of ADEM, on 29 March 2002, in Villavicencio, Department of Meta;
- (32) Salatiel Piñeros, member of ADEM, on 29 March 2002, in Villavicencio, Department of Meta;
- (33) Eddie Socorro Leal Barrera, member of ASINORT, on 31 March 2002, in Salazar, Department of North Santander;
- (34) Santiago Flor María, member of ASINORT, on 31 March 2002, in Tibu, Department of North Santander;
- (35) Freddy Armando Girón Burbano, member of ASOINCA, on 7 April 2002, in Patia, Department of Cauca;

- (36) Miguel Acosta García, member of EDUMAG, on 13 April 2002, in Aracataca, Department of Magdalena;
- (37) Heliodoro Sánchez Pena, member of ASINORT, on 19 April 2002, in Villa del Rosario, Department of North Santander;
- (38) Henry Rosero Gaviria, member of ASEP, on 22 April 2002, in Puerto Guzmán, Department of Putumayo;
- (39) Francisco Isaías Cifuentes Becoche, member of ASOINCA, on 26 April 2002, in Popayán, Department of Cauca;
- (40) Miguel Segura Cortés, member of ASEP, on 29 April 2002, in Puerto Guzmán, Department of Putumayo;
- (41) Jaen Blandón Vargas, member of ASEP, on 29 April 2002, in Puerto Guzmán, Department of Putumayo;
- (42) Bertulfo Borja Clavijo, member of ASEP, on 30 April 2002, in Puerto Guzmán, Department of Putumayo;
- (43) Jairo Betancur Rojas, member of AICA, on 30 April 2002, in Florencia, Department of Caquetá;
- (44) Enio Villanueva Rojas, member of AICA, on 1 May 2002, in El Paujil, Department of Caquetá;
- (45) Ledys Pertuz Moreno, member of EDUMAG, on 6 May 2002, in Pivijay, Department of Magdalena;
- (46) Antonio Acosta, member of ASEP, on 12 May 2002, in Puerto Asís, Department of Putumayo;
- (47) Fernando Olaya, member of ASEP, on 12 May 2002, in Puerto Asís, Department of Putumayo;
- (48) Díaz Adriana Patricia, member of SIMANA, on 11 June 2002, in Los Salzales, Department of Nariño;
- (49) Fabio Antonio Obando Aguirre, member of AICA, on 14 July 2002, in Florencia, Department of Caquetá;
- (50) Carlos Alberto Barragán Medina, member of ASEDAR, on 20 July 2002, in TAME, Department of Arauca;
- (51) Gómez Sepúlveda José Olegario, member of ASEDAR, on 21 July 2002, in Saravena, Department of Arauca;
- (52) Wilson Rodríguez Castillo, member of EDUMAG, on 25 July 2002, in Pivijay, Department of Magdalena;
- (53) Luis Eduardo Cataño, member of ASODEGUA, on 30 July 2002, in the Department of Guajira;
- (54) Ladislao Mendoza, member of ADUCESAR, on 30 July 2002, in San Juan del César, Department of César;

-
- (55) Jaime Lobato, member of EDUMAG, on 3 August 2002, in Pivijay, Department of Magdalena;
 - (56) Ingrid Cantillo Fuentes, member of EDUMAG, on 7 August 2002, in Pedraza, Department of Magdalena;
 - (57) Américo Benítez Rivas, member of ADEM, on 7 August 2002, in Vista Hermosa, Department of Meta;
 - (58) Edison de Jesús Toro Gaviria, member of ADIDA, on 8 August 2002, in Ituango, Department of Antioquia;
 - (59) Alvaro Poveda, member of ADEM, on 15 August 2002, in Vista Hermosa, Department of Meta;
 - (60) Nicanor Sánchez, member of ADE, on 20 August 2002, in Vista Hermosa, Department of Meta;
 - (61) Abigail Girón Campos, member of AICA, on 22 August 2002, in Puerto Asís, Department of Caquetá;
 - (62) Guillermo Sanin Rinco, member of AICA, on 4 September, in Puerto Rico, Department of Caquetá;
 - (63) Oscar de Jesús Payares, member of ADEA, on 6 September 2002, in Barranquilla, Department of Atlántico;
 - (64) Vélez Arboleda Luis Eduardo, member of ADIDA, on 7 September 2002, in Caldas, Department of Antioquia;
 - (65) Gema Lucía Jaramillo, member of ADIDA, on 9 September 2002, in San Andrés del Cuerca, Department of Antioquia;
 - (66) Elmer de Avila Arias, member of ADEA, on 30 September 2002, in Barranquilla, Department of Atlántico;
 - (67) Jorge Ariel Díaz Aristizábal, member of ADEM, on 13 October 2002, in Villavicencio, Department of Meta;
 - (68) José del Carmen Cobos, member of ADEC, on 15 October 2002, in Bogotá;
 - (69) Edgar Rodríguez Guaracas, member of ADEC, on 15 October 2002, in Bogotá;
 - (70) Oscar David Polo Charris, member of EDUMAG, on 28 October 2002, in Pivijay, Department of Magdalena;
 - (71) Yaneth Iburguren, member of ADIDA, on 19 November 2002, in Cocoma, Antioquia;
 - (72) José Lino Beltrán Sepúlveda, member of ASOINCA, on 20 November 2002, in Popayán, Department of Cauca;
 - (73) Cecilia Gómez Córdoba, member of SIMANA on 20 November 2002, in El Talón de Gómez, Department of Nariño;

- (74) José Marcelino González, Rector of the Froilán Farías College of the Municipality of TAME, President of the College of Rectors and Directors (COLDIT), member of the Teachers' Association of Arauca (ASEDAR-FECODE), on 13 January 2003;
- (75) Abelardo Barbosa Páez, member of FENSUAGRO, on 21 January 2003, in Santander;
- (76) Luis Eduardo Guzmán Álvarez, member of ADIDA, on 3 February 2003, in Antioquia;
- (77) Luz Mery Valencia, member of ASEP, on 13 February 2003, in Putumayo;
- (78) Maritza Ortega Serrano, member of ADUCESAR, on 19 February 2003, by hired assassins in the Department of César;
- (79) José Antonio Bohórquez Medina, member of FECODE-CUT, kidnapped on 20 February 2003 and found dead three days later in the Municipality of Alban;
- (80) Fredy Perilla Montoya, activist of SINTRAEMCALI, on 21 February 2003;
- (81) Rufino Maestre Gutiérrez, member of ADUCESAR, on 25 February 2003, by paramilitaries in the Department of César;
- (82) Jairo Echavez Quintero, member of ADUCESAR, on 27 February 2003, by paramilitaries in the Department of César;
- (83) Luis Alfonso Grisales Peláez, member of ASEDAR, on 7 March 2003, by paramilitaries in the Department of Arauca;
- (84) Soraya Patricia Díaz, member of SER on 12 March 2003, in Risaralda.

Abductions and disappearances

- (1) Augusto de Jesús Palacio Restrepo, official of the Trade Union of Glass Industry Workers of Colombia (SINTRAVIDRICOL-CUT), on the road from Medellín to Bogotá, on 17 December 2002.

Detentions

- (1) Nicodemo Luna, official of the Petroleum Industry Workers' Trade Union (USO), detained on 18 December 2002, tortured and later transferred to Military Brigade No. 3 of Cali;
- (2) Hernando Hernández, Secretary of International Affairs at USO and former Vice-President of the Single Confederation of Workers of Colombia (CUT). The Human Rights Unit of the Attorney-General's Office opened File No. 1127B for which it has had to attend depositions on a number of occasions, accused of links with guerrilla groups. It has not been possible to prove these allegations;
- (3) Nubia Esther González, official of the Small and Medium-Sized Sugar Growers' Trade Union (SINDAGRICULTORES), detained by Anti-Guerrilla Group No. 1, Corozalquienes Brigade, in the Don Gabriel Zone, Municipality of Morroa, Sucre, on 18 January 2003;

- (4) Policarpo Camacho and Gloria Holguín, officials of the Agricultural Trade Union of the Municipality of Calarcá, represented by the media as owners of a FARC clinic;
- (5) Rafael Palencia Hernández, active member of SINTRAMINTRABAJO, detained in the SIJIN in Cartagena, accused of belonging to the urban insurgency militias and of planning possible terrorist acts, on 16 February 2003;
- (6) Robinsón Beltrán Herrera, President of the Trade Union of Workers of the Autonomous Regional Corporation of Costa Atlántica (SINTRAELECOL-CORELCA), on 22 February 2003, in the City of Manizales;
- (7) Germán Robinson López, teacher at the integrated college “Ciudad de Ipiales”, in the Municipality of Ipiales, Department of Nariño, member of SIMANA, charged with rebellion and terrorism, on 27 February 2003;
- (8) Teresa Báez Rodríguez, President of SINTRACLINICAS, Bucaramanga, her house was razed and she was detained and charged with fomenting rebellion, on 5 March 2003.

Threats

- (1) Guillermo Rivera Plata, Vice-President of the Trade Union of Stockworking Industry Workers (SINTRAINAGRO), under the protection of a security plan provided by the Government but this protection has now been withdrawn;
- (2) Gladis Barajas, President of the Press Photographers’ Trade Union, on 17 February 2003;
- (3) Wilson Castro Padilla, member of SINALTRAINAL, on 22 February 2003;
- (4) Alvaro Enrique Villamizar Mogollón, President of the SINTRAUNICOL executive subcommittee of Bucaramanga, Department of Santander, on 27 February 2003;
- (5) Roberto Borja Rubiano, official of FENASINTRAP, transferred to another department, on 5 March 2003;
- (6) Alexander López Maya, Martha Cecilia Gómez Reyes, officials of SINTRAEMCALI;
- (7) FECODE attaches a list of its members who have been threatened: Jairo Toro Figueroa, Luis Eduardo Patiño Loaiza, Marlene Rangel García, Carlos Alberto Angulo de la Cruz, Nazli Palomo, Rafael Alberto Ilias, Magda Ibony Moreno Ortiz, Olga Cecilia Merchán Moreno, Ana Deima Chate Rivera, Dalia Esther Florez Lozano, Gilma del Carmen Alarcón, Jorge Aliorio Pinzon Ulloa, Rico Bohórquez Flor Teresa, Isaura Isabel Paniagua Chávez, Giovanni Botello Rodríguez, Luz Parina Pérez Quintero, Omar Andrade, Carlos Alberto Vallejo Mejía, Teresa Hernández Zambrano, María Elena Saavedra Rodríguez, Jairo Alberto Carvajal, Gladis Blanco Urrea, Oscar Eduardo Ramón Flórez, Oscar Henao Gutiérrez.

Other acts of violence

- (1) Nicolás Hernández Cabrera, Secretary-General of FENSUAGRO and his escort Jaime Rodríguez were attacked in the Department of Tolima on 20 December 2003.

- (2) During the protest marches against the privatization of EMCALI, workers gathered to show their solidarity with the protest and the police were hostile towards them, threatening them with death.
- (3) On 16 December 2002, in the Municipality of Saravena, Department of Arauca, various officials of the Saravena Trade Union of Workers of the Communal Aqueducts and Drainage Enterprise were detained and, after several hours of physical and verbal abuse, were released.
- (4) Murder attempt against Elber Alberto Granja, President of the Communal Action Board of the Municipality of Vijes, Valle del Cauca, an unknown person shot at him on various occasions, on 20 February 2003.
- (5) Implementation of military discipline at the Barrancabermeja refinery, preventing access of all trade union officials of the USO; these trade union officials were subsequently attacked with teargas, rubber bullets and shot at, nine people were wounded and 15 detained.

217. On 13 March 2003, students and workers of the University of Nariño carried out a peaceful demonstration in front of the central building of the University. This demonstration was brutally suppressed by more than 150 policemen who thereafter burst into the University Campus and destroyed the laboratory, lecture rooms and offices, beating and unjustifiably detaining the students. The University Rector and a civil defence committee were present to guarantee respect for human rights. They also were brutally aggressed.

Request for protection

218. The ICFTU sent a communication stating that it was known that ten trade union officials of SINTRAUNICOL had been declared military targets by armed organizations operating outside the law. Four of these officials work at the Valle University: Carlos Arbey González Quintero, José Adonai Munera Ortega, Luis Carlos Moreira Roldán and Jesús Antonio Luna. Protection has been requested for these officials.

Comments from the complainants on the need to establish a commission of inquiry

219. In a communication dated 28 March 2003, the Single Confederation of Workers of Colombia (CUT), the General Confederation of Democratic Workers (CGTD) and the Confederation of Workers of Colombia (CTC) listed the reasons why the trade union organizations proposed the need to declare a complaint against the Government of Colombia and to set up a commission of inquiry.

220. The trade union confederations refer to the legislative issues that are still outstanding before the Committee of Experts, to the different restrictive measures affecting the rights of workers and they point out that the situation of violence and impunity is extraordinarily serious. These issues are as follows:

- (a) for many years the supervisory bodies of the Organization have requested that the Government take specific action and Government representatives at the Conference have promised, but have not honoured this promise, to work to find a solution to the violations of freedom of association;
- (b) the trade union confederations acknowledge the complexity of the Colombian situation in so far as, in addition to violations of Conventions Nos. 87 and 98 in law

and in practice, there is also a general atmosphere of impunity that encompasses not only crimes but also anti-union persecution and discrimination of all types, as in the situations involving USO, SINTRAEMCALI and the health sector among others. In 1991, the new Political Constitution tried to correct the inconsistencies between national law and international labour Conventions. It laid down, in article 53, that duly ratified international labour Conventions are part of national law. Going even further, article 93 laid down that international human rights treaties had precedence over national law in conflict situations and provided that the suspension or restriction of these was not allowed in exceptional circumstances. The International Labour Organization Conventions do not have clauses that allow reservations. However, the Ministry of Labour and Social Security continues to use the standards of the Labour Code as a reference, the courts apply as valid provisions that differ from the Conventions and the employers avoid complying with decisions;

- (c) one issue that makes the situation of violations of freedom of association even more complex is the practice that has become generalized among high-level state employees at national, regional and local levels to make public statements accusing the trade unions of being to blame for the economic crisis affecting enterprises and even the State. They often represent conventional achievements as privileges that are not acceptable in a poor country with high unemployment rates. By means of the statements, which are usually repeated widely by the media, they try, and in many cases manage, to set public opinion against trade unions and to discredit rightful claims by trade union organizations with regard to economic and social policies and collective bargaining. It is also common that some private enterprise employers publicly point to the trade union organizations as those responsible for their economic and administrative difficulties, which creates unfavourable reactions by public opinion to trade union activity. One of the most frequent resorts is encouraging parallel collective negotiation to that of the trade union's, through "collective pacts" and the counter-documents that are a common practice today and a concept authorized by national legislation to allow workers who do not belong to unions to regulate aspects belonging to the collective agreement. The tendency over the past ten years is to increase the signing of "pacts" with workers not belonging to unions and to cut the signing of collective agreements with unions. Another way of effecting the right to collective bargaining is the compulsory summons by the Ministry of Labour (now of Social Protection) to submit collective conflicts to the compulsory arbitration tribunal;
- (d) this Government has issued various statements on the illegality of strikes, as in the cases of the North Santander Benefit Society (COMFAORIENTE), SINDESENA, SINDES, Fire Brigade of the A. The Committee of Experts on the Application of Conventions and Recommendations has, on a number of occasions, drawn the attention of the Colombian Government to the fact that it should assign competency to judge the legality of strikes to an independent body, which should be the labour law justice. This initial recommendation is now a reiterated request in the observations published by the Committee in its report to each session of the Conference;
- (e) the Constitutional Court in Ruling T.568 of 1999 urged the Government to change the regulation giving competence to the Ministry of Labour (now of Social Security) to qualify the legality of the strikes in compliance with the recommendation made in a specific case by the Committee on Freedom of Association. More than three years have passed since then and neither the Government nor the Congress have complied with the request of the Court, just as they have never complied with the observations of the Committee of Experts made for years now on the same issue;

- (f) although the Political Constitution, in article 39, grants trade union representatives all the necessary guarantees to ensure that they carry out their administration, there are serious problems with regard to recognition of trade union leave. In the public sector, particularly with regard to trade unions for teaching (FECODE) and judicial authority (ASONAL), the administration has restricted the granting of trade union leave, claiming to reserve for itself the conditions for its reasons and length. Various cases in which the administration has unilaterally cancelled trade union leave being taken by trade union representatives have been submitted. In the private sector this tendency has begun to grow. It is now a frequent occurrence that heads of staff are entirely responsible for assessing the need for trade union leave and its length;
- (g) another worrying issue to highlight with concern, is the proposal in the draft referendum to exclude retirement plans from collective bargaining. The Colombian trade union movement notes with concern that, according to the new pension law, those pensions where the levels are already recognized or where there are prerequisites that differ from the strictly legal ones will be revised in order to reduce or suspend them. This means that conventional pensions can be revised, in clear violation of Conventions Nos. 98 and 151 of the ILO;
- (h) during the months that the new Government has been in power (since 7 August 2002), protests marches by the USO, community mothers, SINTRAEMCALI and others have been violently suppressed. This suppression has left in its wake a number of wounded and detained persons;
- (i) the intolerance of those involved in a prolonged armed conflict has involved society in general; prompting the fact that workers' organizations or those who are active in labour affairs are considered subversive by some public employees and by the paramilitaries who see trade unionism as an alliance with insurgency, inasmuch as some guerrilla forces send "accounts" to former sympathizers who have taken different political options (an "account" is a colloquial way of explaining that the guerrilla fighter "judges" his former colleagues and orders their "execution") and who refuse to serve with rebel forces. These circumstances make the situation complex, which calls for great commitment on the part of the Colombian state institutions, with clear political will on the part of employers and of workers to overcome the already long-standing difficulties occurring in practice and in law with regard to the Conventions on freedom of association and collective bargaining. According to the database of the National Trade Union School of Antioquia, 184 trade union members were murdered in 2002. According to the same source, in 2002, 189 trade union members were threatened, 17 were the subject of murder attempts, nine disappeared, 27 were abducted and one was tortured. This year there have been 139 cases of arbitrary detention and one illegal raid. At the regional level, the Department with the most murders of trade union members was, in 2002, Antioquia (47), followed by Magdalena (13), Nariño and Santander (11 each) and Arauca and Meta (ten each). Of the murders that took place in 2002, 51.08 per cent involved trade union members in the education sector (94), followed by the health sector (16 murders, 8.69 per cent of the total) and the judicial sector (ten cases, 5.43 per cent of the total). There are also data relating to suppression of social protest, which will be dealt with in another paragraph;
- (j) another factor that it is necessary to take into account in order to identify the absence of a Colombian state policy on freedom of association is the degree of impunity: figures provided by the Administrative Department of National Planning some years ago show that general impunity is around 97 per cent. This situation has not changed significantly. Trade union organizations can testify that, with regard to crimes against trade union members and officials, impunity is 100 per cent: since 1987 up until today, the total number of murders, disappearances, torture, threats and forced

relocation of trade union members remains concealed by the murky mantle of impunity, as the Committee on Freedom of Association has witnessed on many occasions. The Attorney-General's Office diligently pursues trade union members, not only at the request of so-called military intelligence but also at other times at the request of employers. The efficiency of the investigation apparatus, when it comes to pursuing leaders of the people, trade union members and officials, can be contrasted with its inefficiency when it comes to identifying the material and intellectual authors of crimes against trade union members and officials. The current Colombian Government has returned to the use of exceptional circumstances, proclaiming the use of legal regulations that harm the basic rights of the citizens. It is relevant to note that, in exercising the competencies granted by exceptional circumstances, the Executive created what is known as the special Rehabilitation and Consolidation Zones, where powers are granted to the military forces to restrict rights of movement, transit, protest and meetings. In some of these zones, the military have been imposing restrictions on the movement of people; and

- (k) the cooperation programme approved by the Governing Body was reduced by 50 per cent and, partly as a result of lack of resources, it has not succeeded in becoming fully developed.

221. Finally, the trade union organizations indicate that they are particularly worried about the constitutional reform plans being sponsored by the Government. These are basically aimed at annulling the democratic advances made with the 1991 Constitution, freeing the military forces from the control of the civil authorities and limiting, if not ending, the procedures for protection of constitutional rights, a legal mechanism which has allowed the population to have guarantee of and respect for their fundamental rights in many cases. All of the aforementioned must be taken into account when the Committee and the Governing Body examine this complaint this time around. The Colombian trade union movement hopes that this time the necessary step of constituting a commission of inquiry will be taken and that it is understood that the goodwill expressed by successive state employees is not enough as, in the long run this does not shape the political will of the State that is necessary to solve the issues in this complaint. The considerations of the report and the conclusions recorded in the preceding paragraphs serve as a basis for the trade union confederations to once again express the need to start the process of the complaint against the Government of Colombia and to form a commission of inquiry so that, as an ad hoc independent body, it can formulate specific recommendations aimed at resolving the serious problems of the right of freedom of association in Colombia. The trade union confederations believe that a commission of inquiry cannot be seen as a threat to a country but rather as the ideal mechanism for the international community to contribute in a responsible way to finding a solution to the serious problems highlighted in the complaint.

C. The Government's reply

222. In its communication dated 2 May 2003 the Government sent its observations in accordance with the commitment made at the 286th Session of the Governing Body in March 2003. The Government notes that certain controversial denunciations did not give rise to a criminal investigation because they were vague and in certain cases did not provide indications as to the exact place or date of the facts, thus rendering impossible a search for the file in the corresponding Public Prosecutor's Office. Moreover, it is possible that no preliminary investigation is carried out either because the violation was never denounced, or because the alleged fact did not occur, thus not giving rise to a pending case. The Internal Group on Human Rights of the Ministry of Social Security (DDHH) requested information from all relevant trade union organizations on cases which raised questions as to the occurrence of the facts or the status of the victim as a trade union leader or official.

Until the date of the report, the Internal Group on Human Rights had not received any reply from the trade union organizations.

223. Second, the Government requested that the following global account of the situation, which contains its reply to the allegations, be reproduced in the 331st Report of the Committee on Freedom of Association:

32 new allegations

Eleven murders: seven at the stage of preliminary investigation; two at the prosecution stage; one pending trial (enforceable sentence); no progress in one case for lack of information on the denunciation; *one act of violence;* *two abductions:* both at the stage of preliminary investigation; *one attempted murder:* at the stage of preliminary investigation; *16 threats:* nine at the stage of preliminary investigation; one at the prosecution stage; one suspended; no progress in five other cases for lack of information on the denunciation; *one detention:* no progress for lack of information on the denunciation.

124 allegations (Annex I)

Sixty-eight murders: 34 at the stage of preliminary investigation (six provisionally closed; three provisionally suspended; nine dismissed for lack of evidence; 16 at the stage of collection of evidence); four at the prosecution stage; four pending trial; no progress in 24 cases for lack of information on the denunciation; two deaths from natural causes (should not be included in Case No. 1787).

Twenty-four abductions and disappearances: 17 at the stage of preliminary investigation (two provisionally suspended; 13 active and two dismissed for lack of evidence); two at the prosecution stage; no progress in four others for lack of information on the denunciation; two cases of liberation (one of which is at the preliminary investigation stage).

Seven attempts: three at the stage of preliminary investigation; one at the prosecution stage; no progress in three cases for lack of information on the denunciation.

Two acts of violence: one dismissed for lack of evidence; no progress in the other for lack of information on the denunciation.

Nineteen threats: nine at the stage of preliminary investigation; no progress in ten cases for lack of information on the denunciation.

Four cases of harassment: one at the stage of preliminary investigation; no progress in three cases for lack of information on the denunciation.

Total: 156 denunciations (32 new allegations plus 124 in Annex I), of which 30 do not pertain to Case No. 1787 either because they do not concern trade unionists, or because the deace did not occur in the framework of trade union activities, as indicated in the responses. Consequently, the Government requests that the following names be withdrawn from Case No. 1787: Jorge Alberto Alvarez, Oswaldo Moreno Ibage, Alfonso Morelly Zárate, Jairo Vera, Leyder María Fernández Cuellar, Yolanda Paternina Negrete, Armando Buitrago Moreno, Julián Ricardo Muñoz, Eduardo Edilio Alvarez Escudelo, Cesar Arango Mejía, Maercelina Saldarriaga, Jacobo Rodríguez, Juan David Corzo, Edith Manrique, Jorge Julio Céspedes, Generoso Estrada Saldarriaga, Alberto Torres, Iván Velasco Vélez, Rubí Moreno, Oswaldo Enrique Borja Martínez, Nohora Elsy López, Cecilia Gallego, Roberto

Carballo, Walter Arturo Velásquez, Germán Medina Gaviria, Paula Andrea Gómez Mora, Jorge Feite Romero, Omar García Angulo, Esperanza Valdés Amortegui, Diógenes Correa.

224. More specifically, the Government provides the following information:

Murders

- (1) Jorge Alberto Alvarez, member of SUTIMAC, on 6 August 2001 in the outskirts of Santa Barbara. On the basis of information provided by the Attorney-General's Office, in March 2003, it appears that the murder took place in the municipality of Betulia Antioquia, on 6 August 2001; the corresponding investigation is underway by Prosecutor's Office 25 specializing in terrorism, in the Department of Medellín, File No. 377-913. The case is currently pending at the preliminary stage. The victim was member of the union of workers in the construction materials industry (SUTIMAC). His trade union position is to be established.
- (2) Adolfo de Jesús Múnera López, Vice-President of the Atlántico branch of CUT and member of SINALTRAINAL, on 31 August 2002 in Barranquilla, Department of Atlántico; by official letter No. 356 of 27 September 2002, the Human Rights Office of the Ministry of Social Security requested information in this respect from the National Unit for Human Rights and International Humanitarian Law of the Attorney-General's Office. Moreover, a request for the relevant information was sent to Genel Fernandez, Director of the National Unit of Human Rights and International Humanitarian Law of the Attorney-General's Office (official letter No. 0075 of 28 January 2003), and to David Martinez Atencia at the Public Prosecutor's section of Barranquilla (official letter DH 0080 of 29 January). The available information on this murder is the following: according to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, the murder committed in the City of Barranquilla on 31 August 2002 is being investigated by the Prosecutor's Office 41, Vida Section, Barranquilla District Directorate, File No. 135.110. The case is currently active and in the stage of preliminary investigation.
- (3) Oswaldo Moreno Ibagüe, leader of the Meta Civic Human Rights Committee and President of the Communal Action Committee, in Villavicencio, on 3 September 2002:

Offence:	Murder
Place and time:	3 September 2002, Villavicencio
District directorate:	Villavicencio
Responsible authority:	District Prosecutor's Office 18
File No.:	76160
Stage:	Preliminary
Current status:	Active
Organization:	Member of the Civic Human Rights Committee of Alto Ariari, politically active in the Communist Party and President of the Board of the Community Action in the Ay Mi Llanura neighbourhood of Villavicencio.

The Government clarified that community action boards are not trade union organizations.

- (4) César Gómez, President of the Pamplona Subcommittee of the National Union of University Workers of Colombia (SINTRAUNICOL), on 5 September 2002 in the Municipality of Pamplona, Department of North Santander; According to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, the murder is being investigated by the Specialized Prosecutor's Office 4, Cúcuta District Directorate, File No. 49563. The case is currently active at the stage of preliminary investigation. Mr. César Gómez was member of the executive board of SINTRAUNICOL.
- (5) Oscar de Jesús Papayes, member of the Atlántico Teachers' Association (ADEA-FECODE-CUT), on 6 September 2002 in Barranquilla, Department of Atlántico. According to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, the murder is being investigated by the Prosecutor's Office 42, Vida Section, Barranquilla District Directorate, File No. 136.248. The case is currently active at the prosecution stage.
- (6) Alfonso Morelly Zárate, member of the Magdalena Branch of the Association of University Teachers (ASPU-CUT), on 7 September 2002 in Marta, Department of Magdalena.

Offence:	Murder
Victim:	Roque Alfonso Morelly Zarate
Place and time:	5 October 2002, Santa Marta
District directorate:	National
Responsible authority:	National Unit on Human Rights and International Humanitarian Law
File No.:	1459
Stage:	Preliminary
Current status:	Active
Organization:	The file does not indicate whether he was a trade union member
Position:	Dean of the Political Science Faculty of the University of Magdalena

- (7) Gema Lucía Jaramillo, member of the Antioquia Teachers' Association (ADIDA-FECODE-CUT), on 9 September 2002 in the Municipality of San Andrés de Cuerquia, Department of Antioquia; according to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, the murder is being investigated by the Ituango District Unit, Antioquia District Prosecutor's Directorate, File No. 2548. The case is currently active at the stage of preliminary investigation. The Prosecutor's Office tries to determine whether the death of Ms. Jaramillo was due to her trade union position.
- (8) Miguel Lora Gómez, member of the executive board of the Workers' Confederation of Colombia (CTC), on 9 September 2002; it was not possible to establish the place where the facts of this case occurred, and this information is necessary to determine which Prosecutor's Office will undertake the investigation. The information has not been submitted by the trade union organizations.
- (9) José Fernando Mena Alvarez, member of the Magdalena Teachers' Union (EDUMAG-FECODE-CUT) on 10 October 2002 in the Municipality of Palermo, Department of Magdalena. The Office of Human Rights of the Ministry of Social Security received

the complaint in an official letter (No. 350 of 13 January 2003) from the International Relations Office of the Ministry of Social Security (registration No. 051 of 15 January). The Santa Marta Delegada Second Prosecutor's Office for the Specialized Circuit Criminal Courts, responded that during the hearing for the pronouncement of charges on 30 December 2002, the accused Jaime Alberto Pabuena, admitted the charges. Consequently, only the forced transfer of the teachers of the Colegio de Bachillerato de Palermo (Magdalena) was investigated with regard to File No. 34792. The accused admitted the charges and the file was forwarded to the criminal tribunal. The circumstances under which Mr. Mena Alvarez lost his life were investigated in the Barranquilla District, under File No. 138777 by the Unit of Crimes against Life, Physical Integrity etc., of Prosecutor's Office 35. The case is currently before the judge and Mr. Pabuena, who admitted the charges, received a sentence.

- (10) Oscar David Polo Charry, member of the Magdalena Workers' Union (EDUMAC-FECODE-CUT) on 28 October 2002 in the morning, on the way to his work, the RURAL school in San José de Media Luna in the Municipality of Pivijay, Department of Magdalena. The Office of Human Rights of the Ministry of Social Security sent a written communication DH 0079 of 29 January to Jairo Neira Trespacios of the Magdalena District Prosecutor's Office requesting clarifications on the facts. It requested the same from Genel Fernandez, Director of the National Unit of Human Rights and International Humanitarian Law of the Attorney-General's Office (communication No. 0075 of 28 January). According to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, the murder of Mr. Oscar David Polo Charry is being investigated by the Third Specialized Prosecutor's Office of Santa Marta, File No. 34369. The case is at the preliminary stage and is currently active. Evidence is being collected in order to clarify the facts and identify those responsible.
- (11) Jairo Vera, member of the Colombian Institute for Agrarian Reform (SINTRADIN-CUT) on 23 November 2002 in Bucaramanga, Department of Santander del Sur. According to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, the murder is being investigated by the Prosecutor's Office 7, Bucaramanga District, File No. 159622. The case is currently active at the prosecution stage without custody. The Prosecutor's Office notes that there is no note in the file on his trade union activities or affiliation with a trade union organization.

Acts of violence

Various workers of the Cali Municipal Enterprises Union (SINTRAEMCALI) were assaulted by the police during the Permanent Assembly meeting on 1 October 2002. This case is under investigation by the Attorney-General's Office.

Abductions and disappearances

- (1) Víctor Manuel Jiménez Frutos, Vice-President of the Agricultural Workers' Union of the Department of Atlántico (SINTRAGRICOLAS-FENSUAGRO-CUT), disappeared on 22 October 2002 in the Municipality of Ponedera, Department of Atlántico. The Baranquilla Prosecutor's Office for the Specialized Circuit Criminal Courts reports that the preliminary investigation is under way (File No. 139121). The preliminary investigation was ordered by a resolution of 5 November 2002, along with certain tasks, inter alia, to request that city's CTI to conduct investigations in order to fully establish the disappearance of Mr. Víctor Manuel Jiménez Fruto. According to the preliminary CTI report, (No. 642 of 22 November 2002) it has not

been possible to establish that Mr. Jimenez Fruto had been murdered on the basis of the evidence collected during the preliminary investigation. Moreover, by a resolution of 18 February it was decided to dismiss further evidence, including a sworn statement by a member of the Political Prisoners' Solidarity Committee given before a local council member and inhabitants of the Municipality of Ponedera.

- (2) Ramón Alzate, Javier Agueldo, Jhon Jairo Sánchez and Rafael Montoya, members of SUTIMAC were abducted on 6 April 2001 and then liberated on 11 April. According to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, Ramón Alzate, Javier Aguedelo, Jhon Jairo Sánchez and Rafael Montoya, members of the Cementos El Cairo Workers' Union were victims of "terrorism" on 6 April 2001 in the Municipality of Santa Barbara, Department of Antioquia. The investigation on this case began on 10 April 2001 and is being carried out by the Medellín Specialized Prosecutor's Office 18, Medellín District Directorate, File No. 435114, currently active at the preliminary stage. Evidence is being collected.

Assaults

On 3 September 2002 a high-power bomb exploded at the offices of the Cali Municipal Enterprises Union (SINTRAEMCALI) causing material damage to the place where workers usually hold their meetings:

File:	No. 525234
Prosecutor's office:	Third specialized, Carlos Martín Latorre
Offence:	Terrorism
Date:	3 September 02
Victim:	SINTRAEMCALI members
Stage:	Preliminary investigation
Accused:	Under investigation

Threats

- (1) The trade union officials of the Cali Municipal Enterprises Union (SINTRAEMCALI) Alexander López Maya and Luis Hernández and the other members of the executive board received a communication from the paramilitary groups. According to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, the threats against these trade union officials have been brought before justice. In fact, the Prosecutor's Office 89, Cali District, Department of Cali, conducts an investigation on the threats against Alexander López Maya (File No. 356496). The case is currently active. The conclusion of the investigation is pending in order to qualify the content of the indictment. Two persons have been assigned to the investigation. Mr. López Maya was running as candidate for the Chamber of Representatives, and was ex-President of SINTRAEMCALI and member of the executive board.
- (2) On the threats against Mr. Luis Antonio Hernández Monroy, the Attorney-General's Office reports that two investigations are currently under way for the same act. One is carried out by the Cali Specialized Unit of the Prosecutor's Office 9, Department of Cali (File No. 403505) The case is at the preliminary stage and evidence is being collected. The second investigation is carried out by the Public Prosecutor's Office, section 29, File No. 391326, at the preliminary stage. The documents relative to the

threats against Mr. Hernández Monroy were transmitted to the Ombudsman's Office on 6 October 2000.

- (3) Gerardo González Muñoz, member of FENSUAGRO-CUT. It has not been possible to establish the place where the act occurred; this information is necessary in order to determine the Prosecutor's Office which initially undertook the investigation. Nevertheless, the Human Rights Office of the Ministry of Social Security requested the union to verify the exact place where the facts occurred in order to determine whether an investigation is under way on this case.
- (4) Domingo Rafael Tovar Arrieta, CUT Director; Investigations are under way in the Specialized Public Prosecutor's Office of Bogotá:

Investigation No. 1:

File No.:	54125
Prosecutor's office:	16 specialized
Stage:	Preliminary
Status:	Active
File No.:	54262
Prosecutor's office:	42 specialized
Stage:	Preliminary
Status:	Active

Investigation No. 2:

File No.:	54273
Prosecutor's office:	40 specialized
Stage:	Preliminary
Status:	Active

Investigation No. 3:

File No.:	249068
Prosecutor's office:	Anti-abductions unit, Bogotá Department
Stage:	Evidence, Trial.
Authority:	Circuit Criminal Judges
Status:	Active

- (5) Workers and trade unionists of the Energía de Arauca enterprise, threatened by paramilitaries. It has not been possible to establish the place where the facts occurred; this information is necessary in order to determine the Public Prosecutor's unit which initially undertook the relevant investigation. Nevertheless, the Human Rights Office of the Ministry of Social Security, requested the trade union to verify the exact place where the facts occurred in order to determine whether an investigation is under way on this case. The trade union organization has so far not responded to the communications of the Ministry and thus no information can be provided.
- (6) In Arauca, activists of the teachers' association (ASEDAR) and the National Association of Workers and Employees in Hospitals and Clinics (ANTHOC); it has not been possible to establish the place where the facts occurred, information which is necessary to determine which Public Prosecutor's unit initially undertook the relevant investigation. Nevertheless, the Human Rights Office of the Ministry of Social

Security, requested the union to verify the exact place where the facts occurred in order to determine whether an investigation is under way on this case. The trade union organization has not yet responded to the Ministry's communication and thus no information can be provided.

- (7) Henry Ocampo, President of the Caldas Workers' Federation (FEDECALDAS), threatened by paramilitaries; according to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, the procedure for the investigation of alleged threats against Henry Ocampo began in 22 August 2000. The investigation is conducted by the Department of Manizales, File No. 41664, and is active at the preliminary stage.
- (8) Saúl Suárez Donado, activist of the Workers' Trade Union, threatened by paramilitaries. When he denounced this fact to the Human Rights Unit of the Attorney-General's Office on 19 September 2002, he was detained on a charge of rebellion. It has not been possible to determine the place where the facts (the threat) took place; this information is necessary in order to determine the Public Prosecutor's unit which initially undertook the relevant investigation. Nevertheless, the Human Rights Office of the Ministry of Social Security, requested the trade union to verify the exact place where the facts occurred in order to determine whether an investigation is under way on this case. The trade union has not yet responded to the Ministry's communications and thus, no information can be provided.
- (9) The Cartagena branch of the National Union of Workers in the Food Industry (SINALTRAINAL), threatened by Self-Defense Groups of Colombia (AUC) on 19 September 2002. The Attorney-General's Office reported that among the threats against trade union officials of SINALTRAINAL, only those directed against Wilson Castro Padilla were registered:

Offence:	Threats
Victim:	Wilson Castro Padilla
Place and time:	13 March 2003, Cartagena
District directorate:	Cartagena
Responsible authority:	District Public Prosecutor 39
File No.:	115265
Stage:	Preliminary
Status:	Active
Organization:	SINALTRAINAL
Position:	Member

- (10) Eduardo Camacho Rugeles, health secretary and member of the Commission on Human Rights, Ever Tique Giron, education secretary and member of the executive committee of the Union of University Workers (SINTRAUNICOL-CUT) and Pedro Edgar Galeano Olaya, secretary for cooperative affairs, threatened by paramilitaries of the Tolima Block in the Department of Tolima on 16 October 2002. The Human Rights Office of the Ministry of Social Security sent official communications to the Tolima District Prosecutor's Office (Ibagué) (No. DH 0085 of 29 January 2003) and to Genel Fernandez, Director of the National Unit of Human Rights and International Humanitarian Law of the Attorney-General's Office (No. 0075 of 28 January 2003), in order to obtain information on these facts. José Dario Ramírez Moreno, Director of the Ibagué District Prosecutor's Office, replied by communication No. DSF-0992 of 21 February 2003, that the Specialized Public Prosecutor's Office 4 conducts the preliminary investigation launched on 2 January 2003 regarding the threats against

Eduardo Camacho Rugeles, Ever Tique Giron and Pedro Edgar Galeano Olaya (File No. 102586) in order to verify the responsible parties for acts which occurred on 16 October 2002, when the executive board of the Union of University Workers (SINTRAUNICOL) received a letter attributed to the AUC Tolima bloc, containing death threats against the abovementioned persons. In addition to this, Camacho Rugeles received threatening phone calls and unknown persons went to the house of his mother-in-law, trying to verify his whereabouts. According to information received from the CTI, the document containing threats was not written by the AUC but by common-law criminals or neighbours of the complainant. The investigation currently continues at the preliminary stage of collection of evidence.

- (11) Carlos Dimate, Antonio Guerrero, Demetrio Guerrero, Marcos Moreno, Diógenes Correa, officials of the Union of Small Farmers of the Department of Cundinamarca (SINTRAGRICUN) and Gerardo González, official of the National United Federation of Agricultural Workers (FENSUAGRO-CUT), in Bogotá in October 2002:

Carlos Dimate:

File No.: 59361
 Prosecutor's office: 16 specialized of Bogotá, Terrorism Unit
 Stage: Preliminary
 State: Active

Diógenes Correa:

File No.: 13266
 Offence: Threats
 Victim: Diógenes Correa who claims to be a community leader, appearing as president of the board of the urbanization action of the founders of Venecia.
 Facts: Venecia locality on 11 September 2002
 Prosecutor's office: 5 Fusagasuga District of the Cundinamarca District Directorate
 Stage: Preliminary
 Status: Active
 Position: Not a trade union leader since community action boards are not trade union organizations.

- (12) Gustavo Guamanga, President of the Union of Small Farmers of the Department of Cauca (SINPEAGRIP), received threats in October 2002, in the city of Popayán. On 2 May 2003, the Prosecutor's Office informed the Ministry of Social Security that the death threats against Gustavo Guamanga were under investigation, which was active, under the following terms:

File No.: 2399
 Offence: Cristóbal Guamanga
 Facts: 17 October 2002 in Miranda, Cauca
 Prosecutor's office: Corinto District, Cauca
 Stage: Preliminary

- (13) Efraín Holguín, Fernando Trujillo Lozada and José Eduardo Villa Garzón, officials of the Workers' Union of the Empresa de Acueducto y Alcantarillado of Bogotá

(SINTRACUEDUCTO-CUT), received threats in October 2002; this case is under examination by the Attorney-General's Office.

- (14) Nicolás Acevedo Cuartas, President of the Apartadó branch of the National Union of Bank Employees (UNEB-CUT), on 29 October 2002 in the City of Bogotá:

File No.: 668574
Prosecutor's office: 37 specialized of Bogotá
Stage: Preliminary
Status: Active

- (15) William Mendoza, President of SINALTRAINAL, on 9 October 2002 and 17 January 2003 in Barrancabermeja, Santander. The Attorney-General's Office provided the following information:

Place and time: 17 January 2003 in Barrancabermeja, Santander
District directorate: Bucaramanga
Responsible authority: Specialized Bucaramanga Prosecutor's Office 3
File No.: 166206
Stage: Preliminary
Status: Active
Organization: SINALTRAINAL
Position: Official

An investigation for similar acts which took place against Mr. Mendoza on 2 January 2002 is conducted in Cartagena, Bolívar. The case is active and is being investigated by the Support Unit to the National Human Rights Unit in Barranguilla, National Directorate, File No. 1438, at the preliminary stage. Evidence is being collected.

- (16) The executive committee of SUTIMAC, Santa Bárbara branch, received threats on various occasions between April and May 2001. The investigation conducted by the Prosecutor's Unit of the Santa Bárbara District (File No. 1790) was suspended on 28 August 2002. Among those who received threats were Germán Darío Serna González, Nelson Ospina and Gustavo A. Villa Guzmán, who were members of the abovementioned committee.

Detentions and harassment

Mario de Jesús Castañeda, President of the CUT-HUILA subcommittee, on 28 October 2002 for distributing leaflets concerning the national strike convened by the CUT. It has not been possible to determine the place where the facts occurred; this information is necessary to determine which Prosecutor's Office initially conducted the relevant investigation. The Neiva District Prosecutor's Directorate reported that it asked all the Prosecutor's Offices assigned to it, and none had undertaken any investigation relative to the detention and harassment of Mario de Jesús Castañeda. More information is necessary on the place where the facts occurred in order to determine whether criminal proceedings are possible. Nevertheless, the Human Rights Office of the Ministry of Social Security requested the union to verify the exact location where the facts took place in order to determine whether an investigation has been undertaken on this case. A copy of this communication by the Ministry of Social Security was forwarded to the ILO Regional Office in Lima. The trade union organization has yet not responded to the communications of the Ministry and thus, no information can be provided.

225. In its recent communication dated 3 February 2003, the ICFTU alleges:

- (1) An assault against Nicolás Hernández Cabrera, general secretary of FENSUAGRO on 20 December 2003; the Attorney-General's Office reported that regarding the offence of assault which took place in Chaparral, Tolima on 20 December 2002, the Prosecutor's Office 28, Chaparral District, Ibagué District Directorate, conducts the preliminary investigation, which is currently active.
- (2) The assassination of José Marcelino Díaz González, President of the College of Rectors and Directors (COLDIG), affiliated to the Arauca Teachers' Association (ASEDAR-FECODE), on 13 January 2003 in the Municipality of TAME, Arauca. The Attorney-General's Office reported that the murder of Marcelino Díaz on 13 January 2003 in the Municipality of TAME, is being investigated by the sole Prosecutor's Office of TAME, Cúcuta District Directorate, File No. 2360, at the preliminary stage, currently active.
- (3) The assassination of Abelardo Barbosa Páez, member of FENSUAGRO on 21 January 2003 in Santander. The murder of Abelardo Barbosa Páez, Director of SINTRAPALMAS which occurred on 21 January 2003, in Caño Murciélagos, Municipality of Puerto Wilches, Santander, is being investigated by the Prosecutor's Office 1, Bucaramanga District, Bucaramanga District Directorate (File No. 28969). The case is currently active at the stage of prosecution.
- (4) The detention of Hernando Hernández, secretary of International Affairs of the USU and former Vice-President of the CUT; Hernando Hernández was detained on 15 January 2003. The investigation is being conducted by the Human Rights Prosecutor's Office 4, Human Rights National Directorate (File No. 1127B). The case is at the prosecution stage on charges of rebellion. By a resolution dated 14 January 2002, it was decided to resolve the legal status of Hernando Hernandez Pardo by replacing the measure of preventive detention for rebellion with the measure of house arrest and a guarantee of five minimum wages. The investigation is ongoing and active.
- (5) The detention of Nubia Esther Gonzalez, officer of the Union of Small and Medium Agricultural Enterprises of Sucre (SINDAGRICULTORES). Nubia Esther Gonzalez Payares, who is an activist according to the President of FENSUAGRO-CUT, belongs to the Departmental Trade Union of Agricultural Enterprises of Sucre (SINDAGRICULTORES), and is a member of the National Women's Department of FENSUAGRO-CUT. The Attorney-General's Office reports the following:

Offence:	Article 467 of Act No. 599 of 2000 on the crime of rebellion
File No.:	30132
Trade union members:	Nubia Esther González and others (Jorge Gómez who was not related to the proceedings and was released)
Place and time:	General area of the Don Gabriel community, jurisdiction of the Municipality of Ovejas, Sucre, 18 January 2003, at 9:00 a.m.
Prosecutor:	Prosecutor's Office 16 for the Circuit Penal Courts, assigned to the unit of economic resources, headquartered in Sincelejo. On 27 January 2003, the responsible Prosecutor's office refrained from imposing security measures to Nubia Esther González and ordered her immediate release.

- (6) The detention of Policarpo Camacho and Gloria Holguín, directors of the Agricultural Union of the Municipality of Calarcá; the Government is in charge of this denunciation and provides the following information: on 8 January 2003, there was a raid in the house of Camacho and Holguín on the grounds of the presumed offence of rebellion, which is under investigation by the Public Prosecutor's Office 20, URI Manizalez District, Department of Manizalez (File No. 74.368-1591). According to the indictment, Policarpo Camacho and Gloria Holguín are accused with the crime of rebellion. Security measures have been imposed on them and have been confirmed on appeal. The investigation is currently active.
- (7) The withdrawal of the protection of Guillermo Rivera Plata, Vice-President of the National Union of Workers of the Agricultural and Fisheries Union (SINTRAINAGRO); the Ministry of the Interior and Justice communicated the following to the Human Rights Office of the Ministry of Social Security: an individual security scheme was approved according to minutes No. 3 of 10 February 2000. Mr. Rivera requested the allocation of a provisional plan each time that the vehicle was under reparation due to an accident and the guards were unable to provide their services, according to minutes No. 19 of 2001. The CRER recommended sending an official communication to the DAS of Antioquia to verify the situation and request the speeding up of the reparation of the van. At the CRER meeting of 14 February 2003, this case appeared once more because the van had been damaged. The CRER recommended reevaluating the risk situation of Mr. Rivera, requesting security measures from the National Police and sending an official communication to the DAS concerning the reparation of the vehicle. At the moment, there is one vehicle (in working order), two guards, and two army weapons. Consequently, Mr. Guillermo Rivera Plata actually benefits from a protection scheme effectively granted by the Ministry of the Interior and Justice.
- (8) The non-application of the Agreement of 29 January 2002 made between the Government, the workers of municipal enterprises of Cali and the community of Cali under the terms of which the non-privatization of the enterprises had been decided. This case is being examined by the Ministry of Social Security.

Information relating to Annex I (alleged acts of violence against trade union officials or members up to the Committee's meeting of November 2002 for which the Government has not sent its observations or has not reported the initiation of investigations or judicial procedures)

Murders

- (1) Edison Ariel, on 17 October 2000, member of SINTRAINAGRO. According to the general report of investigations carried out by the Attorney-General's Office into violations of trade union members' human rights, the Prosecutor's Office, National Directorate, Santa Marta reports that there is no record in the SIJUF. The Prosecutor's Office is also seeking further information on the incident to clarify the facts. After consulting the database of the Prosecutor's judicial information system, it appeared that no investigation is conducted on these facts by the District Prosecutor's Directorate. Nevertheless, the Human Rights Office of the Ministry of Social Security wrote to the trade union, SINTRAINAGRO, to ask it to provide further information, so that it would be easier to trace the case in the Prosecutor's Office concerned since the complainant's denunciation is rather vague and makes it difficult to find the file or

investigate this case. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided.

- (2) Francisco Espadín Medina, member of SINTRAINAGRO, on 7 September 2000, in the Municipality of Turbo, Department of Antioquia. According to "the general report of investigations carried out by the Attorney-General's Office into violations of trade union members' human rights, the special trade union investigations sub-unit did not find any record, and the Prosecutor's Office, Turbo Section will deal with the matter. If an investigation is in progress, a request will be made to transfer it to the special sub-unit ... " Nevertheless, the Human Rights Office of the Ministry of Social Security wrote to the trade union, SINTRAINAGRO, to ask it to provide further information on the facts, so that it would be easier to trace the case in the Prosecutor's Office concerned since the denunciation presented by the complainant is rather vague and makes it difficult to find the file or investigate this case. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided.
- (3) Carlos Cordero, member of ANTHOC, on 6 December 2000, by paramilitaries, in Peñas Blancas, Bochalema, Department of North of Santander. The Attorney-General's Office declared the following: File No. 218; Prosecutor's Office: Cúcuta District Unit; Stage: Preliminary; Current status: dismissed for lack of evidence on 9 January 2002. For its part, the Human Rights Office of the Ministry of Social Security wrote to the trade union, ANTHOC, to ask it to provide further information since the denunciation presented by the complainant is rather vague. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided.
- (4) Gabriela Galeano, official of ANTHOC, on 9 December 2000, in Cúcuta, by paramilitaries. File No. 01-009; Prosecutor's Office: Cúcuta District Unit; Stage: preliminary; Current status: dismissed for lack of evidence on 5 December 2001. For its part, the Human Rights Office of the Ministry of Social Security wrote to the trade union, ANTHOC, to ask it to provide further information since the denunciation presented by the complainant is rather vague. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided.
- (5) Ricardo Flórez, member of SINTRAPALMA, on 8 January 2001. This information is not sufficient to make a search in the databases of the Prosecutors' District Directorates of the country and for this reason, further information is requested, in particular in respect of the name of the victims and the place and date of the facts. It has not been possible to establish the place where these facts occurred. This information is essential in order to establish which Prosecutor's Office initially conducted the relevant investigation. Nevertheless, the Human Rights Office of the Ministry of Social Security wrote to the trade union, SINTRAPALMA, to ask it to provide further information on the facts, so that it would be easier to trace the case in the Prosecutor's Office concerned since the denunciation presented by the complainant is rather vague and makes it difficult to find the file or investigate this case. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided.
- (6) Elsa Clarena Guerrero, member of ASINORT, on 28 January 2001, in the Municipality of Ocaña in a military base. The investigation for homicide is conducted by Prosecutor 03, Ocaña District, Cúcuta District Directorate (File No. 2001-0033). The investigation is at the preliminary stage but was dismissed for lack of evidence by a resolution of 9 October 2001 (current status).

- (7) Alfonso Alejandro Naar Nernandéz, member of ASEDAR, which is affiliated to FECODE, on 8 February 2001, in the Municipality of Arancas. File No.: 2899; Facts: 8 February 2001 in Saravena; Stage: preliminary; Current status: dismissed for lack of evidence on 12 October 2001 (case provisionally closed); Position: member of ASEDAR-FECODE.
- (8) Raúl Gil, member of SINTRAPALMA, on 11 February 2001, in the Municipality of Puerto Wiches, Department of Santander. The Human Rights Office of the Ministry of Social Security wrote to the trade union, SINTRAPALMA, to ask it to provide further information on the facts, so that it would be easier to trace the case in the Prosecutor's Office concerned since the denunciation presented by the complainant is rather vague and makes it difficult to find the file or investigate this case. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided.
- (9) Alberto Pedroza Lozada, on 22 March 2001. This information is not sufficient to make a search in the databases of the Prosecutors' District Directorates of the country and for this reason further information is requested, in particular in respect of the name of the victims and the place and date of the facts. It has not been possible to establish the place where the facts occurred. This information is essential in order to establish which Prosecutor's Office initially conducted the investigation. Nevertheless, the Human Rights Office of the Ministry of Social Security wrote to the most important trade unions of the country to ask them to provide further information, so that it would be easier to trace the case in the Prosecutor's Office concerned since the denunciation presented by the complainant is rather vague and makes it difficult to find the file or investigate this case. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided.
- (10) Jesús Antonio Ruano, member of ASEINPEC, in the Municipality of Palmira, on 27 March 2001. Offence: murder; Place and time: 27 March 2001, in Palmira, Valle; District Directorate: Cali; Responsible authority: Special Prosecutor's Office 11; File No.: 478116; Stage: preliminary; Current status: active; Organization: ASEINPEC; Position: member.
- (11) Leyder María Fernández Cuellar, spouse of the preceding, on 26 April 2001. Offence: murder; Place and time: 26 April 2001; District Directorate: Cali; Responsible authority: Special Prosecutor's Office 9; File No.: 464286; Stage: Preliminary; Current status: Active; Organization: None; Position: none.
- (12) Edgar Thomas Angarita Mora, member of ASEDAR and FECODE, in the Department of Arancas, on 12 June 2001, after having participated in a blockade of the Vía Fortul Sarabena in protest against draft Bill No. 012, File No. 3048; Facts: 12 June 2001, in Saravena; Prosecutor's Office: Saravena District, DSF Cúcuta; Stage: preliminary; Current status: dismissed for lack of evidence on 6 February 2002, case provisionally closed.
- (13) Manuel Pájaro Peinado, Treasurer of the Barraquilla District Union of Civil Servants (SINDIBA), on 16 August 2001, in the Department of Atlántico. He had asked for his inclusion in the protection programme of the Ministry of Interior from which he did not receive an answer. His murder took place while the union was staging a series of protests against the application of Bill No. 617 on mass dismissals in part of the district administration. The investigation is continuing in order to clarify the facts. Offence: murder; Victim: Manuel Pájaro Peinado; Facts: 16 August 2001; Prosecutor's Office of Barraquilla: investigation unit constituted of Special Prosecutor's Offices 2 and 3; File No. 10701; Stage: Preliminary; current status: active.

- (14) Fernando Euclides Serna Velásquez, member of the national CUT of Bogotá collective security plan, disappeared on 18 August 2001 and found assassinated the next day in the Department of Cundinamarca. He was a member of the collective security scheme of the CUT. File No. 54969; Prosecutor's Office: Specialized 42 of Bogotá; stage: preliminary; current status: active.
- (15) Yolanda Paternina Negrete, member of ASONAL-CUT, on 29 August 2001, in the Department of Sucre, she was a judge specialized in public order and was in charge of various high-risk cases. Offence: aggravated murder; Place and time: Sincelejo, Sucre, on 29 August 2001; Directorate: National Unit; Authority in charge: National Unit of Human Rights and International Humanitarian Law; File No.: 1079; Stage: prosecution; Current status: prosecution; Organization: there is no evidence to establish trade union membership.
- (16) Miguel Chávez, member of ANTHOC-CUT, on 30 August 2001 in the Department of Cauca. The investigation is currently at the preliminary stage, the file being active, and is conducted by the Special Prosecutor's Office 3 of Popayán, File No. 37411. Currently at the stage of collection of evidence.
- (17) Manuel Ruiz, Official of CUT, on 26 September 2001, in the Department of Córdoba. The investigation is conducted by the Special Prosecutor's Office of Medellín. However, information on the number of the file and its current stage has not been found yet.
- (18) Ana Ruby Orrego, member of the El Valle Single Education Worker's Trade Union (SUTEV-CUT), on 3 October 2001, in the Department of Valle del Cauca. The investigation is currently at the preliminary stage and active and is conducted by the Prosecutor's Office 11 of Buga, File No. 43233. The Attorney-General's Office stated that "according to the resolution of 26 April 2002, the case was dismissed for lack of evidence".
- (19) Ramón Antonio Jaramillo, counsellor of SINTRAEMSDES-CUT, on 10 October 2001, in the Department of Valle del Cauca, while paramilitaries were carrying out a massacre in the region. The Attorney-General's Office reported in respect of the investigation that appropriate inquiries are in hand to locate the cases in the Attorney-General's Office and, according to the relevant verifications, no investigation has been found on these facts in the jurisdiction of Buga. In addition, 24 persons were massacred in this jurisdiction, in the Corregimiento of Alaska on 10 October 2001, but none of the victims had this name. Nevertheless, the Human Rights Office of the Ministry of Social Security wrote to the trade union, SINTRAEMSDES, to ask it to provide further information, so that it would be easier to trace the case in the Prosecutor's Office concerned since the denunciation presented by the complainant is rather vague and makes it difficult to find the file or investigate this case. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided.
- (20) Arturo Escalante Moros, member of USO, disappeared on 27 September 2001 and was found dead on 19 October 2001. Initially disappeared on 2 September 2001 in Chía, Cundinamarca, and found assassinated on 19 October 2001 in Barrancabermeja, Santander. The Human Rights Office of the Ministry of Social Security wrote to the trade union, USO, to ask it to provide further information, so that it would be easier to trace the case in the Prosecutor's Office concerned since the denunciation presented by the complainant is rather vague and makes it difficult to find the file or investigate this case. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided.

(21) Armando Buitrago Moreno, member of the National Association of Civil Servants and Judicial Employees, ASONAL, on 6 June 2001. It has not been possible to establish the place where the facts occurred. This information is essential in order to determine which Prosecutor's unit initially conducted the investigation in question. Therefore, the investigation on the murder of Armando Buitrago Moreno could not be conducted, and, in this respect, the Attorney-General's Office stated that all relevant verifications were made in order to trace the case. For the above reason, the authority conducting this investigation, the file number and the stage of the investigation could not be established. Nevertheless, the Human Rights Office of the Ministry of Social Security wrote to the trade union, ASONAL, to ask it to provide further information on the facts, so that it would be easier to trace the case in the Prosecutor's Office concerned since the denunciation presented by the complainant is rather vague and makes it difficult to find the file or investigate this case. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided. The Prosecutor's Office notes that Buitrago Moreno was investigator at the CIT 06 judicial branch, but his connection to the trade union ASONAL remains to be established.

(22) Julián Ricardo Muñoz, member of the National Association of Civil Servants and Employees of the Judicial Branch (ASONAL), 6 June 2001, in Bogotá. File No. 53878; Prosecutor's Office: special prosecutor's office 15, terrorism unit of Bogotá; Stage: preliminary; Current status: active; nevertheless, the Attorney-General's Office notes that Mr. Muñoz was investigator at the CTI 06 judicial branch, but his connection to the trade union remains to be established.

(23) Edgar Thomas Angarita Mora, activist of the Arauca Teachers' Association, (ASEDAR), on 11 June 2001, in Barrancones:

File No.:	3048
Facts:	12 June 2001 in Saravena
Prosecutor's office:	Saravena District
Stage:	Preliminary
Current status:	Case provisionally closed for lack of evidence on 6 February

(24) Cristóbal Uribe Beltrán, member of the National Association of Workers and Employees in Hospitals, Clinics, Dispensaries and Community Health Units (ANTHOC), 28 June 2001 in Tibu, by paramilitaries:

File No.:	33. 928
Prosecutor's office:	Fourth Unit of Life, Prosecutor's Office, Cúcuta District Directorate.
Stage:	Preliminary
Current status:	Active

The Human Rights Office of the Ministry of Social Security requested the trade Union, ANTHOC, to provide further information. The latter has not yet replied to the Ministry's communications and thus no additional information can be provided.

(25) Eduardo Edilio Alvarez Escudelo, member of the National Association of Civil Servants and Judicial Employees (ASONAL) on 2 July 2001 in Antioquia, by guerrilla forces; Alvarez Escudelo's murder is listed in the general report of investigations carried out by the Attorney-General's Office into violations of trade union members' human rights, but there is no specific information on the place, the

date and the authors of the act. In this last respect, the Attorney-General's Office notes that it has not been possible to establish the place where the facts occurred; this information is necessary to identify prosecutor's unit initially conducted the investigation. The vice-chairperson of ASONAL JUDICAL, Mr. Luis Fernando Otalvaro Calle, indicated in a written communication of 7 February 2003 that Mr. Eduardo Edilio Alvarez was not a member of this trade union.

- (26) Prasmacio Arroyo, member of the Magdalena teachers' union (SINTRASMAG), on 26 July 2001 in Magdalena; upon examination of the database of the Prosecutor's Office, Santa Maria District Directorate, and of the entire Public Prosecutor's judicial system, no investigation was found on these facts. Further, this information is not insufficient to carry out a search into the existing databases of the prosecutor's district directorates of the country and for this reasons, it is necessary to request further information, especially in respect to the name of the victim, the place and the date of the facts. Nevertheless the Human Rights Office of the Ministry of Social Security wrote to the trade union, SINTRASMAG, to ask it to provide further information so that it would be easier to trace the case in the Prosecutor's Office concerned. The trade union has not yet replied to the Ministry's communications and thus no additional information can be provided.
- (27) Efraín Toledo Guevara, member of the Caquetá's Teacher Association (AICA), on 5 August 2001 in Caquetá.

Offence:	Murder
Place and date:	Caquetá, 5 August 2001
District directorate:	Florencia
Responsible authority:	Prosecutor's Office 40, Florencia
File No.:	17175
Stage:	Preliminary
Current status:	Suspended

- (28) César Bedoya Ortiz, activist of the University Teachers' Association (ASPU), on 16 August 2001 in Bolívar; upon the examination of the existing data base in the Prosecutor's Office, Cartagena District Directorate, no investigation whatsoever on these facts could be located. Further, the current information on this case is insufficient for carrying out a research into the existing data bases of the district directorates of the prosecutor's offices of the country; it is thus necessary to request more information, especially in relation to the victim's name, the place and the date of the facts. The Human Rights Office of the Social Protection Ministry sent an official communication to the trade union ASPU, with a view to obtain further information in order to locate the investigation in the corresponding section of the prosecutor's office. The union has not replied yet to the communications of the Ministry who, therefore, cannot provide any information.
- (29) César Arango Mejía, member of the National Association of Civil Servants and Employees of the Judicial Branch (ASONAL), on 24 August 2001 in Risaralda; a written communication of 7 February 2003 signed by the vice-chairperson of the National Association of Civil Servants and Employees of the Judicial Branch ASONAL JUDICAL, Mr. Luis Fernando Otalvaro Calle, indicated that Mr. Arango Mejia was not a member of ASONAL JUDICAL.
- (30) Luis Ernesto Camelo, activist of the Santander Teachers' Union (SES), on 2 September 2001, in Santander, by paramilitaries:

File No.: 24380
 Victim: Luis Ernesto Camelo López, Jorge Eliécer Joya Méndez, Alberto Cardozo Marchena
 Prosecutor's office: 6th Prosecutor's Office, delegate to the criminal judges of the Barrancabermeja district
 Offence: Murder
 Date: 2 September 2001
 Place: Barrancabermeja, Santander
 Current status: Preliminary, the decision of suspension became enforceable on 30 October 2002

- (31) Marcelina Saldarriaga, activist of the Antioquia Teachers' Association (ADIDA), on 5 September 2001, in Antioquia:

Offence: Murder
 Place and time: 5 September 2001 in Itaguí, Antioquia
 District directorate: Antioquia
 Responsible authority: Prosecutor's Office 47, Itaguí section, Antioquia
 File No.: P-1639
 Stage: Preliminary
 Current Status: Dismissed for lack of evidence on 27 February 2002
 Organization: Headmistress of the Itaguí high school La Marceliana Saldarriaga, Antioquia
 Position: No trade union membership

- (32) Gilberto Arbeláez Sánchez, member of the Antioquia Teachers' Association Subcommittee (ADIDA), on 9 September 2001 in Antioquia:

Offence: Murder
 Place and time: 9 September 2001, in Rionegro, Antioquia.
 District directorate: Antioquia
 Responsible authority: 105th Prosecutor's Office, El Santuario District, Antioquia
 File No.: P-5.204
 Stage: Preliminary
 Current status: Dismissed for lack of evidence on 31 October 2002
 Organization: ADIDA
 Position: Member

- (33) Jacobo Rodríguez, member of the Caquetá Teachers's Association (AICA), on 18 September 2001 in Caquetá, by paramilitaries; the investigation is carried out by the Special Prosecutor's Office 4 of the district directorate of Florencia, under the number No. 18115, and has reached the prosecution stage. The investigation is currently active. With regard to the trade unionist position, the Attorney-General's Office indicates that the organization of which Mr. Rodriguez was a member remains to be established.

- (34) Juan David Corzo, member of the National Association of Civil Servants and Employees of the Judicial Branch (ASONAL), on 20 September 2001 in Cúcuta, by paramilitaries:

Offence: Murder
 Victim: Juan David Corzo Mendoza
 Place and date: 22 September 2001, in Cúcuta, North of Santander
 District directorate: National
 Responsible authority: National Human Rights and International Humanitarian Law Unit (DIH)
 File No.: 1107
 Stage: Preliminary
 Current status: Active
 Organization: To be established
 Position: To be established

Nevertheless, the Public Prosecutor's Office notes that Corzo Mendoza was Chief of the Police CTI 20, but his connection to the trade union organization ASONAL remains to be established because there is no exact registration of his trade union affiliation.

- (35) Bibiana María Gómez Bedoya, member of the Antioquia Teachers' Association (ADIDA); the investigation is conducted by the Prosecutor's Office 89, Vida Section, Medellín District Directorate, File No. 474956, at the preliminary stage. The investigation is currently active.
- (36) Antonio Mesa, member of the University Workers' Union (SINTRAUNICOL), on 25 September 2001, in Barranquilla, by paramilitaries:

Offence: Murder
 Place and time: Barranquilla, Atlántico on 25 September 2001.
 District directorate: National Unit
 Responsible authority: National Unit of Human Rights
 File No.: 1095
 Stage: Indictment
 Current status: Active
 Organization: SINTRAUNICOL
 Position: Member

- (37) Germán Elías Madrigal, member of the Antioquia Teachers' Association, on 28 September 2001, in Antioquia:

Offence: Murder
 Place and time: Municipality of Caucasia, Antioquia on 28 September 2001
 District: Antioquia
 Responsible authority: Section Prosecutor's Office
 File No.: 1879
 Stage: Prosecution
 Current status: Active
 Organization: ADIDA
 Position: Teacher

(38) Plutarco Herrera Gómez, member of the Claims Committee of the National Union of Cargo Handlers in Colombian Maritime Ports, on 30 September 2001, in Valle del Cauca, by paramilitaries. Upon examination of the database of the Public Prosecutor's Office, Cali District Directorate, no investigation was found on these facts. Moreover, the information is not sufficient to undertake a search in the databases of the District Prosecutor's directorates of the country and for this reason, further information is requested, especially concerning the name of the victim, and the place and date of the facts. Nevertheless, the Human Rights Office of the Ministry of Social Security sent an official request to the National Union of Cargo Handlers in Colombian Maritime Ports in order to provide better information on the facts, in a form that facilitates the search for the file in the corresponding section prosecutor's office.

(39) Gustavo Castellón Fuentes, activist of the Union of Family Benefit Fund Workers of Barrancabermeja (SINALTRACOFAN), on 20 October 2001, in Barrancabermeja, by paramilitaries:

Offence:	Murder
Place and time:	20 October 2001, in Barrancabermeja, Santander
District directorate:	Bucaramanga
Responsible authority:	Section unit of Barrancabermeja
File No.:	24747
Stage:	Preliminary
Current status:	Suspended by resolution of 20 November 2002
Organization:	SINALTRACOFAN
Position:	Member

(40) Milena Pereira Plata, ASINORTH, on 30 October 2001, in Santander, by the FARC. Upon examination of the database of the Public Prosecutor's Office, Bucaramanga District Directorate, there was no reference to any investigation on these facts. In addition, this data is not sufficient to undertake a search on the existing databases of the District Prosecutor's directorates of the country, and for this reason, further information is requested, especially concerning the name of the victim, and the place and date of the facts. Nevertheless, the Human Rights Office of the Ministry of Social Security, sent an official request to the ASINORTH union in order to provide better information on the facts, in a form that facilitates the search for the file in the corresponding section prosecutor's office. The trade union organization has not responded to the communications of the Ministry yet and thus, information cannot be provided.

(41) Edith Manrique, activist of Caldas Teachers' United (EDUCAL), on 6 November 2001, in Caldas, by paramilitaries:

Offence:	Murder
Place and time:	3 November 2001 in Florencia, Manizales
District directorate:	Manizales
Responsible authority:	Pensilvania Section Prosecutor's Office, Caldas
File No.:	1553
Stage:	Preliminary
Current Status:	Active
Organization:	The procedure has not provided the least element of evidence as to the affiliation of the defunct to the EDUCAL trade union

Position: No affiliation

- (42) Eriberto Sandoval, member of the National United Federation of Agricultural Workers (FENSUAGRO), on 11 November 2001, in Ciénaga, by paramilitaries; after having been consulted, the databases of the Judicial Information System of the Public Prosecutors' Offices and the books based in the Ciénaga Public Prosecutor's Unit (Magdalena), provided that there has been no investigation in this district on these facts.
- (43) Eliécer Orozco, FENSUAGRO, on 11 November 2001, in Ciénaga, by paramilitaries; on this particular case, the National Unit on Human Rights and International Humanitarian Law of the Attorney-General's Office, reported that after having been consulted, the databases of the Judicial Information System of the Public Prosecutors' Offices and the books based in the Ciénaga Public Prosecutor's Unit (Magdalena), provided that there has been no investigation in this district on these facts.
- (44) Jorge Julio Céspedes, activist of Caldas Teachers' United (EDUCAL), on 24 November 2001, in Caldas, by paramilitaries:

Offence: Aggravated murder
 Place and time: Manizales – Caldas, on 24 November 2001
 District directorate: Manizales
 Responsible authority: Public Prosecutor 2, Manizales district
 File No.: 57304
 Stage: Prosecution
 Current status: Active
 Organization: EDUCAL. The position of Mr. Cespedes has not been established yet

- (45) María Leida Montoya, activist of the Antioquia Teachers' Association, on 30 November 2001, in Antioquia; the National Unit on Human Rights and International Humanitarian Law of the Attorney-General's Office, reported that on this case it has not been possible to determine the exact site where the facts occurred; this information is necessary in order to determine which Prosecutor's Office initially undertook the relevant investigation. Nevertheless, the Human Rights Office of the Ministry of Social Security officially requested the ADIDA trade union to provide further information on the facts, to facilitate the search for the file in the corresponding district prosecutor's office. The trade union organization has not yet responded to the Ministry's communications and thus, no information can be provided.
- (46) Luis Alfonso Gaviria Meneses, activist of the Trade Union of Workers and Employees in the Public Services Agencies and Decentralized Institutions of Colombia (SINTRAEMSDES), on 30 November 2001, in Antioquia, by paramilitaries:

Offence: Murder
 Place and time: 30 November 2001, in the Belén neighborhood of Medellín
 District directorate: Medellín
 Responsible authority: District 1241 Public Prosecutor's Office
 File No.: 138
 Stage: Preliminary

Current status: Active
 Organization: SINTRAEMSEDES
 Position: Member

(47) Herlinda Blando, member of the Union of Teachers and Lecturers of Boyacá, on 1 December 2001 in Boyacá, by paramilitaries; the National Unit of Human Rights and International Humanitarian Law, Attorney-General's Office, reported that the District Directorate of the Public Prosecutors' Offices of Tunja stated that investigations on these facts – violations of workers' human rights – are not undertaken in any of the Prosecutors' Offices assigned to this Directorate.

(48) Generoso Estrada Saldarriaga, member of the Union of Electricity Workers of Colombia (SINTRAELECOL), on 4 December 2001, in Antioquia:

Offence: Murder
 Place and date: In the Municipality of Guarne, Antioquia on 4 December 2001
 District directorate: Medellín
 Responsible authority: Guarne District Public Prosecutor's Office
 File No. 5018
 Stage: Preliminary
 Current status: Dismissed for lack of evidence on 31 July 2002
 Organization: SINTRELECOL. The position has not been established yet

(49) Germán Darío Ortiz Restrepo, member of the Antioquia Teachers' Association (ADIDA), on 7 December 2001, in Antioquia:

Offence: Murder
 Date and time: Medellín, Antioquia, on 7 December 2001
 District directorate: Medellín
 Responsible authority: District 86 de Vida Prosecutor's Office
 File No.: 506-041
 Stage: Preliminary
 Organization: ADIDA
 Position: Professor

(50) Alberto Torres, member of the Antioquia Teachers' Association (ADIDA), on 12 December 2001, in Antioquia. This information is not sufficient to undertake a search in the existing databases of the District Directorates of the Prosecutors' Offices of the country, especially with regard to the name of the victim, place and date of the acts. According to information collected by the Antioquia District Directorate of Prosecutors' Offices, although Mr. Torres was a teacher at the El Peñol Municipality, Department of Antioquia, he was not assassinated in the exercise of, nor because of his trade union activities.

(51) James Estrada, activist of the Antioquia Teachers' Association (ADIDA), on 13 December 2001, in Antioquia:

Offence: Murder
 Place and time: In the Municipality of Bello, Antioquia, on 13 December 2001

District directorate: Medellín
 Responsible authority: Public prosecutor 16, specialized in terrorism
 File No.: 623-989
 Stage: Preliminary
 Current status: Active
 Organization: ADIDA
 Position: Professor

- (52) Iván Velasco Vélez Union of University Workers, on 27 December 2001, in Valle del Cauca, by paramilitaries:

Offence: Murder
 Place and time: Cali – Valle, on 26 December 2001
 District directorate: Cali
 Responsible authority: Public Prosecutor 27, Cali District
 File No.: 461911
 Stage: Preliminary
 Current state: Provisional filing

The Prosecutor's Office also reported that the affiliation of Mr. Velasco to the trade union organization and his position within it remain to be established.

- (53) Rubí Moreno, member of ANTHOC, on 20 January 2002, in César, by paramilitaries:

Offence: Murder
 Place and time: Pueblo Bello, Cesar, on 20 January 2002
 District directorate: Valledupar
 Responsible authority: District Prosecutor 17
 File No.: 141341
 Stage: Preliminary
 Current status: Dismissed for lack of evidence on 25 November 2002
 Organization: ANTHOC
 Position: To be established

- (54) Víctor Alberto Triana, Association of Employees of ECOPETROL (ADECO), on 21 January 2002, by paramilitaries; Carlos Padilla, President of the Union of Workers in the Fray Luis de León Hospital, member of the General Confederation of Democratic Workers and UTRADEC, on 28 January 2002, in the Municipality of Plato Magdalena, after receiving threats. The following has been reported on the investigation:

District directorate: Santa Marta
 Responsible authority: Specialized Public Prosecutor 1, Santa Marta
 File No.: 29156
 Stage: Preliminary
 Current status: Active
 Organization: UTRADEC
 Position: President

- (55) Walter Oñate, shot dead when leaving work at the Eduardo Arredondo Daza Hospital in Valledupar, on 29 January 2002. The Attorney-General's office reports that:

District directorate: Valledupar
Responsible authority: Specialized Public Prosecutor 8
File No.: 141139
Stage: Preliminary
Current state: Dismissed for lack of evidence on 16 October 2002
Organization: SIDESC
Position: Secretary

- (56) Oscar Jaime Delgado Valencia, teacher at the Camilo Torres de Armenia College, Department of Quindío, shot dead on 4 February 2002. The Attorney-General's Office reported that the preliminary investigation for murder has been undertaken by the Third Unit on Life of District Public Prosecutor, Armenia District Directorate, and that the case is currently pending trial before the third Judge of the Penal Circuit, File No. 42315. Edison Ospina Rudiano was sentenced to 28 years of imprisonment for the murder of Valencia Delgado. It has also been reported that Valencia Delgado was a member of SUTEQ.

- (57) Oswaldo Enrique Borja Martínez, member of the National Association of Civil Servants and Judicial Employees (ASONAL), on 6 February 2002, in Sucre, by paramilitaries. According to the information provided by the Attorney-General's office on the investigation, the following has been reported:

Directorate: National Unit
Responsible authority: National Unit on Human Rights and International Humanitarian Law

There has been no reference to any investigation on these facts in the database of the District Directorate of Public Prosecutors' Offices of Antioquia and Medellín. In this respect, the Attorney-General's Office reported that this information is not sufficient to undertake a search in the databases of the District Prosecutors' Directorates of the country, and for this reason more ample information is requested, especially with regard to the name of the victim, the place and time of the facts. Nevertheless, the Human Rights Office of the Ministry of Social Security, officially requested the trade union SINDICONS to provide further information on the facts, in a form which will facilitate the search for the file in the corresponding District Prosecutor's Office. The trade union organization has not yet responded to the communications of the Ministry and thus, no information can be provided.

- (60) Alfredo González Páez, member of the Association of Employees of INPEC (ASEINPEC), on 15 February 2002, in Tolima, by paramilitaries. According to the information provided by the Attorney-General's Office, it has not been possible to trace the investigation in the DSF Assignments Office of Cundinamarca and the Girardot District Prosecutor's Unit. Further information on the facts is necessary. Nevertheless, the Human Rights Office of the Ministry of Social Security officially requested the INPEC trade union ASEINPEC, to provide further information on the facts, in a form which will facilitate the search for the file in the corresponding District Prosecutor's Office. The trade union organization has not yet responded to the communications of the Ministry and thus, no information can be provided

- (61) Oswaldo Meneses Jiménez, ASEINPEC, on 15 February 2002 in Tolima, by paramilitaries. According to the information provided by the Attorney-General's

Office, it was not possible to trace the investigation in the office of assignments of the DSF Cundinamarca and the Prosecutor's Office, Girardot District. More information is required as to the facts. However, the DDHH in the Ministry of Social Security wrote to the INPEC trade union, ASEINPEC, to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.

- (62) José Wilson Díaz, member of the Union of Electricity Workers of Colombia (SINTRAELECOL), on 21 February 2002 in Huila, by the FARC:

District directorate: Neiva
 Responsible authority: Special Prosecutor No. 1, Neiva
 File No.: 50606
 Stage: Preliminary
 Current status: Inhibitory order dated 5 March 2003, effective 17 March and provisional archiving ordered.
 Organization: SIMEC trade union
 Position: Station engineer

- (63) Cecilia Gallego, Secretary for Women's Affairs of the Executive Committee of Colombian Farmers' Action (ACC), in the municipality of Macarena, on 25 February 2002. According to memorandum No. 001 sent by Dr. Jaime Martínez Pico, Labour and Social Security Inspector in Granada, Meta, on 9 January 2003 to the DDHH of the Ministry of Labour and Social Security, after a thorough review of this office's files, no record was found of a trade union registration for the Colombian Farmers' Action union in the Municipality of Macarena. This is in response to the telephone request by the territorial director of the Ministry of Labour in Meta. The Attorney-General's Office reports as follows:

Offence: Murder of protected person
 Place and time: Macarena – Meta, 25 February 2002
 Directorate: Villavicencio Support Unit
 Responsible authority: Support Unit in the National Human Rights Unit
 File No.: 1388
 Stage: Preliminary
 Current status: Active
 Organization: Colombian Farmers' Action (not a trade union)
 Position: Secretary for Farmers' Affairs of the Executive Committee

- (64) Marcos Antonio Beltrán, SUTEV activist, on 1 March 2002 in Valle del Cauca. According to the information provided by the Attorney-General's Office on the murder of Mr. Beltrán, this occurred on 1 March 2002 in the Municipality of Palmira, Department of Valle del Cauca, stating further that the Coordinator of the Palmira District Unit reports that no investigation is being conducted into this incident, suggesting that further information on the facts should be provided. Finally, it reported that Mr. Beltrán was a grass-roots worker in SUTEV-CUT. However, the DDHH in the Ministry of Social Security wrote to the SUTEV trade union, to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.

- (65) Roberto Carballo, member of the National Association of Civil Servants and Judicial Employees (ASONAL), on 6 March 2002 in Bolívar:

Offence: Murder
Victim: Roberto David Carballo Ortiz, Municipal Judge, Morales
Place and time: In the municipality of Morales, Bolívar, on 6 March 2002
District directorate: Cartagena
Responsible authority: Prosecutor 28, Simití District
File No.: 2037
Stage: Preliminary
Current status: Active
Organization: Municipal Judge, Morales
Position: To be determined

In addition a letter was received on 7 February 2003 signed by Luis Fernando Otalvaro Calle, National Vice-President of the National Association of Civil Servants and Judicial Employees, in which he stated that Mr. Roberto Carballo was not a member of ASONAL JUDICIAL.

- (66) Eduardo Chinchilla Padilla, activist of the Union of Workers in the Oil Palm and Related Industries (SINTRAPALMA-CUT), on 11 March 2002:

File No.: 26345
Prosecutor's office: Eighth Prosecutor's Office attached to the Barrancabermeja Criminal Circuit Judges
Offence: Murder
Date: 11 March 2002
Place: Puerto Wilches, Santander
Status: Preliminary, active

- (67) Luis Miguel Rubio Espinel, member of the North Santander Teachers' Association, ASINORT, 15 July 2001:

Offence: Murder
Place and date: 15 July 2001, in Cúcuta
District directorate: Cúcuta
Responsible authority: Criminal Court 3, Cúcuta Circuit
File No.: 33,793
Stage: Trial
Organization: ASINORTH
Position: Member

- (68) José González Barros, activist of the Trade Union of Official Workers and Public Employees of the Municipality of Sabanagrande (SINTRAOPUSA-CUT), on 2 July 2002, in the Municipality of Sabanagrande. According to the Attorney-General's Office, the Prosecutor's Office, Barranquilla District Directorate, Barranquilla, reports that the Prosecutor's Office Judicial Information System (SIJUF) shows no record of an investigation into this murder. The Sabanagrande police station was requested to report which authority exhumed the body and to which prosecutor's office it was sent. On 30 April 2003, the Prosecutor's Office reported that following

appropriate investigations, it was found that an active investigation into the murder of Mr. Barros was in progress, adding the following information:

Offence:	Murder
Victim:	José de las Mercedes Gonzáles Barros
Date:	2 July 2002
Prosecutor's office:	First district, Soledad, Atlántico
File No.:	IP 1531
Stage:	Preliminary
Current status:	Active

In addition, the DDHH in the Ministry of Social Security wrote to the trade union, SINTRAOPUSA-CUT, to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.

Abductions and disappearances

- (1) Ismael Ortega, Treasurer of SINTRAPROACEITES, San Alberto (César):

Offence:	Disappearance
Place and date:	17 October 1998, in San Alberto, César.
District directorate:	Valledupar
Responsible authority:	Special Prosecutor's Office 1, Valledupar
File No.:	451-0245
Stage:	Preliminary
Current status:	Suspended
Organization:	INDUPALMA
Position:	Employee

- (2) Walter Arturo Velásquez Posada, of the Nueva Floresta School, in the Municipality of El Castillo, in the El Ariari Educational District, Department of Meta:

Offence:	Abduction
Place and date:	Municipality of El Castillo, Meta, 9 May 1999
District directorate:	National Unit
Responsible authority:	National Human Rights and International Humanitarian Law Unit
File No.:	63303
Stage:	Preliminary
Current status:	Suspended
Organization:	The investigation shows no evidence of membership of any trade union
Position:	Teacher

- (3) Neftalí Romero Lombana, of Aguazúl (Casanare) and Luis Hernán Ramírez, teacher from Chámeza (Casanare), members of SIMAC-FECODE:

Offence:	Abduction
----------	-----------

Place and date: Aguazul Casanare 11 May 2000
 District directorate: Santa Rosa de Viterbo
 Responsible authority: Yopal Gaula District Prosecutor
 File No.: 10060
 Stage: Preliminary
 Current status: Active
 Organization: SIMAC-FECODE
 Position: Member

- (4) Germán Medina Gaviria, member of the Cali Municipal Enterprises Union (SINTRAEMCALI), on 14 January 2001, in the neighbourhood of El Porvenir, town of Cali. The investigation was initially conducted by the Cali Trade Union Sub-Unit, but the Cali Special Prosecutor's Office reports that there is at present no investigation into these events. Thus the trade union and the position held by Mr. Medina Gaviria remains to be ascertained. However, the DDHH in the Ministry of Social Security wrote to the trade union, SINTRAEMCALI, to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.

- (5) Julio César Jaraba, member of SINTRAISS, disappeared on 23 February 2001:

Offence: Unlawful imprisonment
 District directorate: Bucaramanga
 Responsible authority: First Prosecutor's Office attached to the Bucaramanga Circuit Special Criminal Courts
 File No.: 151353
 Stage: Prosecution
 Current status: Active
 Organization: SINTRAISS
 Position: Member

- (6) Paula Andrea Gómez Mora (daughter of Edinson Gómez, member of SINTRAEMCALI, who was threatened on several occasions), abducted on 18 April 2001 and released on 20 April 2001:

Offence: Abduction
 Place and date: 18 April 2001
 District directorate: Cali
 Responsible authority: Section Prosecutor's Office 11
 File No.: 420271
 Stage: Preliminary
 Current status: Inhibitory, order of 30 August 2001
 Organization: None
 Position: None

- (7) Eumelia Aristizabal, member of ADIDA, disappeared on 19 April 2001:

Offence: Abduction
 Date and place: 19 April 2001

District directorate: Medellín
 Responsible authority: Special Prosecutor's Office 53, Gaula of Oriente
 File No.: P-460-956
 Stage: Preliminary
 Current status: Active
 Organization: ADIDA
 Position: Member

- (8) Rosa Cecilia Lemus Abril, official of FECODE, attempted abduction foiled on 14 May 2001. The Attorney-General's Office reports the following:

Offence: Disappearance
 Place and date: El Santuario, Antioquia, 19 April 2001
 District directorate: Medellín
 Responsible authority: Special Prosecutor's Office 53 attached to the Gaula of Oriente
 File No.: 460-956
 Stage: Preliminary
 Current status: Active
 Organization: ADIDA
 Position: Teacher

- (9) Six workers in public enterprises in Medellín belonging to SINTRAEMSDES were abducted in the Department of Antioquia on 12 June 2001. The abduction occurred in the municipality of El Peñol and the names of the victims, who are now free, are Héctor de Jesús Tamayo Ortiz, Ismael Zuluaga Aristizabal, Leonardo Zuluaga Villegas, Bernardo Arango Ruiz, José Vargas Vargas and Luis Humberto Mora. The investigation was initially conducted by the now defunct Rionegro Anti-extortion and Abduction Unit. For reasons of jurisdiction, it was transferred on 22 August 2001 to the Special Prosecution Units of the District Directorate, Prosecutor's Office, Medellín, File No. 795. The investigation is at the preliminary stage and active.

- (10) Julio Enrique Carrascal Puentes, member of the national executive committee of CUT, abducted on 10 August 2001:

Offence: Abduction
 Place and date: 10 August 2001 in the *corregimiento* (settlement) of El Playón on the road from Cartagena to San Onofre
 District directorate: Cartagena
 Responsible authority: First Prosecutor's Office attached to the Gaula
 File No.: 74524
 Stage: Preliminary
 Current status: Active
 Organization: Union of Workers in the Institute of Social Security and Member of the National Executive Committee of the CUT
 Position: Member

- (11) Winsgton Jorge Tovar, member of ASONAL-CUT, abducted near the Municipality of Dagua:

Offence: Abduction for ransom
 Place and date: Cali (*corregimiento* of Felidia), Valle, 20 August 2001
 District directorate: Cali
 Responsible authority: Special Prosecutor 15, Cali
 File No.: 449814
 Stage: Preliminary
 Current status: Active
 Organization: ASONAL
 Position: Section prosecutor at that time

- (12) Alvaro Alberto Agudel Usuga, member of ASONAL-CUT, disappeared on 20 August 2001:

Offence: Disappearance
 Place and date: Medellín, Antioquia, 20 August 2001
 District directorate: Medellín
 Responsible authority: Special Prosecutor 53
 File No.: 534-966
 Stage: Preliminary
 Current status: Active
 Organization: ASONAL-CUT
 Position: Public official

Mr. Agudelo Usuga was Municipal Judge in Medellín and a member of the National Association of Civil Servants and Judicial Employees, ASONAL

- (13) Jorge Feite Romero, member of the Association of Pensioners of the University of Atlántico (ASOJUA), on 28 August 2001. Jorge Feite Romero, murdered in the Municipality of Ciénaga, Magdalena, on 29 August 2001, was noted for his trade union work and defence of human rights. The Attorney-General's Office provided the following information on his abduction:

Offence: Abduction and murder
 Place and date: 28 August 2001, in Ciénaga, Magdalena
 District directorate: National
 Responsible authority: National Human Rights and International Humanitarian Law Unit
 File No.: 1096
 Stage: Preliminary
 Current status: Active
 Organization: There is no evidence that he belonged to any trade union
 Position: University teacher in Atlántico

- (14) Ricaurte Jaunten Pungo, official of ANTHOC-CUT, on 2 September 2001:

Offence: Murder
 Place and date: Popayán, Cauca, 2 September 2001
 District directorate: Popayán
 Responsible authority: Popayán Special Prosecutor 7

File No.: 37428
 Stage: Preliminary
 Current status: Referred to Cali Section
 Organization: ANTHOC-CUT
 Position: Official

- (15) Alvaro Laiton Cortés, President of the Boyacá Teachers' Union, on 2 September 2001, released shortly after being abducted. The Attorney-General's Office provided the following information on his abduction:

Offence: Abduction and threats
 Place and date: 2 September 2001 in Chiquinquirá
 District directorate: Tunja
 Responsible authority: Section Prosecutor's Office 23, Chiquinquirá
 File No.: 989
 Stage: Preliminary
 Current status: Inhibitory
 Organization: Boyacá Teachers' Union
 Position: President

Mr. Laiton Cortés was a teacher and President of the Boyacá Teachers' Union.

- (16) Marco Tulio Agudero Rivera, ASONAL-CUT, in the municipality of Cocorna, on 5 October 2001. The Attorney-General's Office reported in respect of the abduction that all appropriate steps were in hand to trace the cases in the Attorney-General's Office. However, the DDHH in the Ministry of Social Security wrote to ASONAL-CUT, to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (17) Iván Luis Beltrán, member of the executive committee of FECODE-CUT, on 10 October 2001. The DDHH in the Ministry of Social Security wrote to FECODE-CUT, to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (18) Carlina Ballesteros, member of the Bolívar Single Teachers. Union (SUDEB-CUT), on 5 November 2001:

Offence: Abduction for ransom
 Place and date: Puerto Rico, Bolívar, 5 November 2001
 District directorate: Cartagena
 Responsible authority: Special Prosecutor 1 attached to the *Gaula*
 File No.: 81506
 Stage: Preliminary
 Current status: Active
 Organization: SUDEB-CUT
 Position: Member

- (19) Hugo Alberto Peña Camargo, President of the Arauca Rural Workers' Association (ACA), detained in the *corregimiento* of Caño Verde, Department of Arauca, without a judicial warrant, on 13 March 2002:

Offence:	Disappearance
Place and date:	13 March 2002, in Arauca
District directorate:	Cúcuta
Responsible authority:	Section Prosecutor's Office, Saravena
File No.:	3669
Stage:	Preliminary
Current status:	Active
Organization:	Arauca Rural Workers' Association (ACA)
Position:	President

- (20) Hernando Silva, member of the USO, abducted in Quebrada La Nata, Department of Casanare, on 25 March 2002 by paramilitaries, members of the José David Suárez Front of the ELN while travelling by a back road from the Yopal forest to the ECOPETROL pumping station in the municipality of Araguaney, in the village of La Niata, jurisdiction of Yopal, Department of Casanare. He was released on 3 May 2002 in the main park of the municipality of Labranzagrande (Boyacá) through the mediation of the International Red Cross, the media and the Casanare Regional Ombudsman. According to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, the investigation into the abduction is being conducted by Prosecutor's Office 5 attached to the Gaula of Yopal, File No. 30169 and is at the preliminary stage, currently examination of evidence, preliminary inquiries having commenced on 26 March 2002.
- (21) Arturo Escalante Moros, member of the USO, on 27 September 2001, disappeared on 2 September 2001 and was subsequently murdered in the Municipality of Barrancabermeja, Department of Santander on 19 September 2001. The DDHH in the Ministry of Social Security wrote to USO to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (22) Miguel Angel Rendón Graciano, Vice-President of the Chocó Subcommittee of the Sena Public Employees' Trade Union, on 6 April 2002, in the Department of Chocó. He was abducted on 6 April 2002 while travelling from the Municipality of Itsmina to the City of Quibdó, on the road between the Municipality of Atrato near the Doña Josefa *corregimiento* and was released on 9 June to a committee of the diocese of Quibdó in the *corregimiento* of Boca de Capaz. This is according to information provided by the Ministry of Defence in its communication MDD-HH-725 of 31 October 2002, which information was taken from the CUT communication dated 19 April 2002. It is thus clear that Mr. Rendon is not currently abducted.
- (23) Gonzalo Ramírez Triana, USO activist, on 30 July 2002, in the Department of Cundinamarca. As to his position as trade union leader or official, it should be noted that Dr. Ricardo Sarmineto Fonseca, Chief of the Personnel Department of ECOPETROL transport division, replied to the letters ref. DH384 and DH386 of the DDHH in the Ministry of Social Security to inform it that the workers Gonzalo Ramirez Triana and Alonso Pamplona were workers in the Transport Division, the latter having been with the company for about one month after being transferred by the Human Rights Office in Centro Oriente. Registration No. 620 of 18 November

2002 shows that they are also members of the Oil Pipeline Subdivision which conducts trade union activity in the Transport Division, but they are *not* members of its executive board. In addition, a letter ref. 03-40101 of 30 December 2002 from the Colombian Petroleum Corporation, states that Mr. Gonzalo Ramirez Triana, internal payroll registration No. 3-0239, who had retired, was employed on an indefinite contract by that division since 19 October 1971, with previous contracts during three months. He was a member of the Workers' Trade Union but there was no record of his membership of the executive board. With respect to the investigation, the Cundinamarca District Directorate of the Prosecutor's Office reported in 13 January 2003 that it had contacted the Chief Prosecutor of the unit attached to the Villeta criminal circuit judges, Cundinamarca, which stated that investigation No. 3525 into the abduction of Gonzalo Ramirez Triana was in progress. The preliminary investigation had opened, with orders for examination of evidence and assigning the police intelligence service, SIJIN, to undertake intelligence work to establish the truth and those responsible for the reported incidents.

- (24) On 20 August 2002 the following 27 individuals were abducted in the Department of Chocó, including a number of retirees and workers of the Cali Municipal Trade Union: Flower Enrique Rojas, President of the Cali Trade Union of Workers (SINTRAMUNICIPIO); María del Carmen Rendón, Jair Rendón, Antonio Bejarano, Henry Salcedo, Diego Valencia, Carlos Salinas, Beatriz Orozco, Soledad Fals, Elécer Ortiz, Jaime Sánchez Ballén, Pedro Potosí, Oscar Ivan Hernández, Gerardo Machado, Néstor Naráez, Libaniel Arciniegas, all members of the union:

Offence:	Abduction
Place and date:	20 August 2002, in the Department of Chocó.
District directorate:	National
Responsible authority:	Special Prosecutor's Office 119, Anti-Abduction and Extortion
File No.:	119
Stage:	Prosecution
Current status:	Active
Organization:	SINTRAMUNICIPIO
Position:	Members

Attempted murders

- (1) César Andrés Ortiz, member of the CGTD, on 26 December 2000. According to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, Mr. César Andrés Ortiz suffered a gunshot wound to the shoulder while he was walking through his neighbourhood on 26 December 2000. A young man died and six other persons were wounded in the attack. On the investigation into the incident, the Attorney-General's Office reported that all appropriate inquiries were in hand to locate the cases in the Attorney-General's Office. However, the DDHH in the Ministry of Social Security wrote to the CGTD to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (2) Héctor Fabio Monroy, member of AICA-FECODE, on 23 February 2001 in Albania Caquetá. The prosecutor's office provided the following information:

Offence: Murder of Yaneth Gómez Sánchez and attempted murder of Héctor Fabio Monroy Díaz.
 File No.: 14,696
 Prosecutor's office: Section Prosecutor's Office 4, Florencia
 Stage: Preliminary
 Current status: On 24 October 2001 an order was made not to commence prosecution proceedings

- (3) Attack on the executive committee of SINTRAEMCALI in the outskirts of the town of Cali, when they were attending a working group to make proposals concerning the Cali Enterprise Recovery Plan, on 10 June 2001. The Attorney-General's Office reports that the authority conducting the investigation, the file no. and the status of the investigation remains to be ascertained. However, the DDHH in the Ministry of Social Security wrote to the SINTRAEMCALI to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided. In addition, the DDHH, concerned at the serious situation in the EMCALI Trade Union, specially requested the Attorney-General's Office to provide information on all cases of human rights violations against SINTRAEMCALI officials in which there were active criminal investigations, which resulted in the following information being provided:

Investigation No. 1

File No.: 391326
 Prosecutor: Section 29, Dr. Jairo Daniel Fonseca
 Offence: Threats
 Date of incident: 29 September 2000
 Victim: Luis Antonio Hernández Monroy
 Stage: Preliminary
 Accused: To be ascertained

Investigation No. 2

File No.: 402254
 Prosecutor: Section 91, Dr. Carlos Alberto Mejía
 Offence: Threats
 Date of incident: 11 December 2000
 Victim: Javier Alfonso López Rojas
 Stage: Preliminary
 Accused: To be ascertained

Investigation No. 3

File No.: 403505
 Prosecutor: Section 91, Dr. María del S. Ordoñez
 Offence: Threats
 Date of incident: 30 November 2000
 Victim: Luis Antonio Hernández Monroy
 Stage: Preliminary

Accused: To be ascertained

Investigation No. 4

File No.: 403612
Prosecutor: Section 11, Dr. Alba Luz Lozada
Offence: Abduction
Date of incident: 6 December 2000
Victims: Diego and Noe Quiguanaz González
Stage: Preliminary
Accused: To be ascertained

Investigation No. 5

File No.: 431241
Prosecutor: 30, Dr. Nelly Gallego Tumiñan
Offence: Threats
Date of incident: 11 July 2001
Victim: Ricardo Herrera
Stage: Preliminary
Accused: To be ascertained

Investigation No. 6

File No.: 435415
Prosecutor: Section 29, Dr. Jairo Daniel Fonseca
Offence: Threats
Date of incident: 10 August 2001
Victim: Rigoberto Díaz
Stage: Preliminary
Accused: To be ascertained

Investigation No. 7

File No.: 443316
Prosecutor: 93, Dr. María del S. Ordoñez
Offence: Threats
Date of incident: 20 September 2001
Victims: Carlos Arturo Marín and Carlos Fdo Flórez
Stage: Preliminary
Accused: To be ascertained

Investigation No. 8

File No.: 494949
Prosecutor: Section 30, Nelly Gallego Tumiñan
Offence: Threats
Date of incident: 1 May 2002
Victims: Jesús González Luna and Luía Antonio Monroy

Stage: Preliminary
 Accused: To be ascertained

Investigation No. 9

File No.: 525234
 Prosecutor: 3rd Special, Dr. Carlos Martín Latorre
 Offence: Terrorism
 Date of incident: 3 September 2002
 Victims: SINTRAEMCALI members
 Stage: Preliminary
 Accused: To be ascertained

Investigation No. 10

File No.: 550760
 Prosecutor: 93, Dr. María del Socorro Ordoñez
 Offence: Threats
 Date of incident: 4 March 2003
 Victim: Luis Enrique Imbachi Rubiano
 Stage: Preliminary
 Accused: To be ascertained

Investigation No. 11

File No.: 346202
 Prosecutor: Life Unit 19
 Offence: Attempted murder
 Date of incident: 15 December 1999
 Victim: Antonio Gonzalez Luna
 Stage: Preliminary
 Accused: To be ascertained

Investigation No. 12

File No.: 358080
 Prosecutor: 3rd Special, Dr. Carlos Martín Latorre
 Offence: Attempted murder
 Date of incident: Unknown
 Victims: Antonion González Luna and Giovanni Rodríguez
 Stage: Preliminary
 Accused: To be ascertained

As this shows, there are at present 12 criminal investigations in progress for human rights violations against trade unionists involving SINTRAEMCALI members, including one for threats and assaults against “members” of the Trade Union of the Empresa Municipal de Cali.

- (4) Clemencia del Carmen Burgos, member of ASONAL-CUT, who was investigating the financing networks of the AUC self-defence groups, on 11 July 2001:

Offence: Aggravated murder and bodily injuries
 Place and date: Montería, Córdoba, 11 July 2001
 Victims: Miguel Ignacio Lora Méndez and Clemencia Burgos Durango
 District directorate: Montería
 Responsible authority: Section Prosecutor 13
 File No.: 21082
 Stage: Preliminary
 Current status: Active
 Organization: To be ascertained
 Position: Chief SIA-CTI Montería

- (5) Omar García Angulo, member of SINTRAEMECOL, on 16 August 2001:

File No.: 11055
 Victims: Murder of Doris Nuñez Lozania and bodily injuries to Mayor Cesar Fernando Caraballo and Omar García
 Date: Fusagasuga, 16 August 2001
 Prosecutor's office: Bogotá special unit

In addition, the nature of the relationship between Mr. García Angulo and SINTRAEMECOL, Fusagasuga section, remains to be established.

- (6) Hebert Cuadros, member of the Valle del Cauca Single Union of Education Workers (SUTEV), on 16 November 2001. A search of the database in the Cali District Directorate Prosecutor's Office did not find any investigation into this matter. The data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. The DDHH in the Ministry of Social Security therefore wrote to SUTEV to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (7) The national headquarters of the Union of Electricity Workers of Colombia (SINTRAELECOL), on 8 July 2002 in Bogotá. According to the general report of investigations conducted by the Attorney-General's Office into violations of trade union members' human rights, the attack on the SINTRAELECOL headquarters occurred in Bogotá on 8 July. The investigating authority, the file number and the status of the proceedings have still to be ascertained in the Attorney-General's Office. However, the DDHH in the Ministry of Social Security wrote to SINTRAELECOL asking it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.

Acts of violence

- (1) Henry Alberto Mosquera, of the Yumbo Municipal Workers Trade Union assaulted by security forces on 1 May 2002. According to investigations by the Human Rights Office in the Ministry of Labour, it was concluded that Mr. Mosquera, national identity number Cali 16.759.386, is a member of the Yumbo Municipal Workers' Trade Union, legal registration No. 00387 of 10 April 1961, File No. 144, registration

No. 856-0856, date of admission to membership 24 November 1989. In addition, the Yumbo Municipal Workers Trade Union was asked to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.

- (2) Ricardo Valbuena, of the Trade Union of Workers of Yumbo Municipality, under circumstances similar to those described above:

Offence:	Threats
File No.:	323190
Stage:	Provisionally archived, inhibitory order of 24 October 1999
Prosecutor's office:	Section 91, Cali
District directorate:	Cali

Death threats

- (1) Juan de la Rosa Grimaldos, President of ASEINPEC:

File No.:	54349
Prosecutor's office:	Special 37 Bogotá
Stage:	Preliminary
Status:	Active

According to the Ministry of the Interior's list of "Measures actually taken for trade union leaders and activists during 2001 and 2002", no request for protection was made by Mr. Juan de la Rosa Grimaldos, and therefore no protection was provided during the period.

- (2) Giovanni Uyazán Sánchez: the data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. However, the Human Rights Office in the Ministry of Social Security wrote to the three most representative trade union federations in the country (CUT-CTC-CGDT) asking of which Mr. Uyazán Sánchez is or was a member. Thus, the trade union federation which has a record of Mr. Uyazán Sánchez will provide more information on the facts, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The trade union confederations have not yet replied to the Ministry's communications and thus no information can be provided.
- (3) Reinaldo Villegas Vargas, member of the "José Alvear Restrepo" Society of Lawyers. The data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. However, the Human Rights Office in the Ministry of Social Security wrote to "José Alvear Restrepo" Society of Lawyers (which is not a trade union) asking whether Mr. Villegas Vargas is or was a member, to obtain more information, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The organization has not yet replied to the Ministry's communications and thus no information can be provided.

- (4) The following officials and members of USO: Carlos Oviedo, César Losa, Ismael Ríos, José Meneses, Julio Saldaña, Ladislao Rodríguez, Luis Linares, Rafael Ortiz, Ramiro Luna:

Unlawful imprisonment of José Meneses

Offence: Unlawful imprisonment
 Place and date:
 District directorate: Medellín
 Responsible authority: Special Prosecutor's Office 23
 File No.: P-378.262
 Stage: Preliminary
 Current status: Active
 Organization: USO
 Position: Member

The remaining data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident.

- (5) Rosario Vela, member of SINTRADEPARTAMENTO. These data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. However, the Human Rights Office in the Ministry of Social Security wrote to SINTRADEPARTAMENTO to obtain more information, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (6) Numerous officials and members of FECODE. These data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. However, the Human Rights Office in the Ministry of Social Security wrote to FECODE to obtain more information, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (7) Jorge Nisperuza, President of the CUT subcommittee, Córdoba:

Offence: Personal threats
 Place and date: Montería
 District directorate: Montería
 Responsible authority: Section Prosecutor's Office 13
 File No.: 23678
 Stage: Preliminary
 Current status: Inhibitory order, as the incident did not take place
 Organization: CUT Córdoba branch

- (8) Gerardo Rodrigo Genoy Guerrero, President of the National Union of Workers, SINTRABANCOL:

File No.: 54090
Prosecutor's office: Bogotá special 37
Stage: Preliminary
Status: Active

- (9) José Rodrigo Orozco, President of the CUT-CAUCA executive committee. The Attorney-General's Office reports that there is a record of the complaint of death threats against José Rodrigo Orozco in Popayán, Cauca:

File No.: 54,365
Victim: José Rodrigo Orozco
Prosecutor's office: Section Prosecutor's Office 005, Popayán
Date: 25 May 2002
Stage: Preliminary
Current status: Active

According to the Ministry of the Interior's programme of protection of witnesses and threatened persons, and the list of "Measures actually taken for trade union leaders and activists during 2001" Mr. José Rodrigo Orozco was provided with the following protection measures: national humanitarian assistance and a cell phone worth a total of 2,645,932 pesos. During 2002, he had a cell phone as a protection measure worth a total of 1,014,465 pesos. This information was corroborated by Dr. Luis Fernando Cobo López, Head of Protection in the Administrative Security Department (DAS), Cauca Section, in letter ref. 0259 of 15 January 2003, in that Mr. Rodrigo Orozco currently has an escort and personal security service provided by DAS under the Ministry of the Interior's programme.

- (10) Against SINTRAHOINCOL workers on 9 July 2001. In this case it has not been possible to establish where the incidents occurred, this information being necessary to ascertain which prosecutor's office began the investigation, so further information is requested, especially concerning the name of the victim, place and date of the incident. The Human Rights Office in the Ministry of Social Security therefore wrote to SINTRAHOINCOL to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (11) Leonel Pastas, official of the National Colombian Institute for Agrarian Reform (INCORA), on 14 August 2001. The Attorney-General's Office reported that the investigation is active, at the preliminary stage, and is being conducted by the District Directorate Prosecutor's Office, Bogotá, File No. 605624.
- (12) Rusbel, INCORA official, on 14 August 2001. The Attorney-General's Office reported that the Human Rights Office in the Ministry of Social Security wrote to INCORA to ask it to provide further information on the facts, so that it would be easier to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (13) Edgar Púa and José Meriño, Treasurer and Prosecutor of ANTHOC, on 16 August 2001:

Offence:	Threats
Victims:	Edgar Púa Samper and José Rafael Meriño Camelo
Date:	2000
File No.:	102948
Prosecutor's office:	Investigative unit consisting of special prosecutors 2 and 3, Barranquilla
Stage:	Preliminary
Current status:	Active
Organization:	ANTHOC
Position:	Treasurer and Prosecutor respectively

The Prosecutor's Office also reported that this was the second threat against those trade unionists, since on 6 June 2001 they received a message giving them 24 hours to leave the city and give up their trade union work. Mr. Edgar Púa and José Meriño were treasurer and prosecutor respectively of ANTHOC, Barranquilla.

- (14) Jesús Tovar and Ildis Jarava, ANTHOC officials, were followed by heavily armed men from 16 August 2001. These data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. However, the Human Rights Office in the Ministry of Social Security wrote to ANTHOC to obtain further information, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (15) Edgar Mojica and Daniel Rico, President and Press Secretary respectively of the USO, threatened by members of the Self-Defence Groups of Colombia.

The Attorney-General's Office reports that there is a record of the complaint of death threats against Edgar Mojica Vanegas and Daniel Rico in Bogotá, Cundinamarca on 27 and 31 August 2001. The Office reports the following:

File No.:	58514
Prosecutor's office:	Bogotá Special 42
Stage:	Preliminary
Status:	Active

In addition, the Human Rights Office in the Ministry of Social Security was informed that they had received several threatening calls. In May they received threats in the USO office in Bogotá. According to the Ministry of the Interior's programme of protection of witnesses and threatened persons, and the list of "Measures actually taken for trade union leaders and activists during 2001" Mr. Edgar Mojica Vanegas and Mr. Daniel Rico were provided with the following protection measures: in 2001 a cell phone worth a total of 929,932 pesos and during 2002 they were also given a cell phone worth a total of 1,014,465 pesos.

- (16) On 26 October 2001, the entire executive board of SINTRAVIDRICOL-CUT was threatened with death:

Offence:	Unlawful imprisonment
Place and date:	26 October 2001
District directorate:	Medellín

Responsible authority: Section Prosecutor's Office 102
File No.: P-494.357
Stage: Preliminary
Current status: Active
Organization: SINTRAVIDRICOL
Position: Officials

- (17) Jorge Eliécer Londoño, member of SINTRAEMSDES-CUT, received death threats on 2 November 2001. These data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. The Human Rights Office in the Ministry of Social Security therefore wrote to SINTRAEMSDES-CUT to obtain further information, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (18) Against trade union officials in Yumbo. These data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. The Human Rights Office in the Ministry of Social Security therefore wrote to the Yumbo Municipal Workers' Union to obtain further information, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (19) The headquarters of SINTRAHOINCOL. These data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. The Human Rights Office in the Ministry of Social Security therefore wrote to SINTRAHOINCOL to obtain further information, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.

Harassment

- (1) Esperanza Valdés Amortegui, Treasurer of ASODEFENSA, victim of illegal espionage through the installation of microphones in her workplace. According to communication No. 04146 of 24 December 2002 signed by Dr. Alvaro Paris Barón, legal adviser to ASODEFENSA, Ms. Esperanza Valdés is a public employee, dental assistant and has worked in the Ministry of National Defence for 19 years. This letter makes no mention of Ms. Esperanza Valdés being a trade union leader or official. Consequently, the Human Rights Office in the Ministry of Social Security wrote to ASODEFENSA to obtain further information, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (2) Henry Armando Cuéllar Valbuena, harassed and physically assaulted. These data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. Consequently, the Human

Rights Office in the Ministry of Social Security wrote to the three most representative trade union federations in the country (CUT-CTC-CGDT) to ascertain of which Mr. Henry Armando Cuéllar is or was a member and obtain further information, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The trade union confederations have not yet replied to the Ministry's communications and thus no information can be provided.

- (3) Carlos González, President of the Union of University Workers of El Valle, assaulted by police, on 1 May 2001. These data are not sufficient to carry out a search of the databases in the country's other prosecutor's office district directorates, so further information is requested, especially concerning the name of the victim, place and date of the incident. However, the Human Rights Office in the Ministry of Social Security wrote to the Union of University Workers of El Valle to obtain further information, since the complaint is somewhat general, which makes it more difficult to trace the case in the section prosecutor's office concerned. The trade union has not yet replied to the Ministry's communications and thus no information can be provided.
- (4) Jesús Antonio González, director of the CUT Department of Human and Trade Union Rights, assaulted by police, on 1 May 2001:

File No.:	494949
Prosecutor:	30, Nelly Gallego Tumiñan
Offence:	Threats
Date of incident:	1 May 2002
Victims:	Jesús González Luna and Luis Antonio Monroy
Stage:	Preliminary
Accused:	Police squad

Raids and detentions

- (1) Rafael Palencia Fernandez. On 19 February, there was a raid on the home of Mr. Palencia, a member of SINANMINTRABAJO, who was pursuing claims by haulage companies against the transnational CocaCola. At present, Mr. Palencia is being held in the SIJIN prison in Cartagena, accused of allegedly belonging to the rebel urban militia and to be planning possible terrorist acts in the city on the occasion of the business leaders' summit with President Uribe on 20 and 21 February 2003. A letter was sent to the Attorney-General's Office concerning this matter seeking information on the investigation and the results thereof. On 28 April 2003, the Attorney-General's Office provided the following information: For the offence of rebellion: accused: Robinson Beltrán Herrera, Member of CORELCA (now ELECTROCOSTA), Rafael Palencia Fernández, member of the Ministry of Labour Workers' Union; File No: 115275; Prosecutor's Office: Section Prosecutor's Office 35, Economic Assets Unit, Cartagena; Offence: Rebellion; Arrest: Rafael Palencia Fernández, in a raid on 18 February 2003 and Robinson Beltrán Herrera was arrested on 22 February 2003 in Manizales.
- (2) Samuel Reyes. Also on 19 February in the night, his home was raided, and he was accused of the same offence as Palencia. A letter was sent to the Attorney-General's Office concerning this matter seeking information on the investigation and the results thereof. On 28 April 2003, the Attorney-General's Office provided the following information: For the offence of rebellion: accused: Samuel Reyes Olivera; File No: 115275; Prosecutor's Office: Section Prosecutor's Office 35, Cartagena; Offence: Rebellion; preliminary, active.

- (3) Robinson Beltrán Herrera: the Manizales police arrested Mr. Beltrán Herrera as, according to them, they had been notified of an arrest warrant by a prosecutor in Cartagena, which they immediately executed. At the present time, he is still in detention. A letter was sent to the Attorney-General's Office concerning this matter seeking information on the present situation of the arrest and the reasons for it. On 28 April 2003, the Attorney-General's Office provided the following information: For the offence of rebellion: accused: Robinson Beltrán Herrera, Member of CORELCA (now ELECTROCOSTA), Rafael Palencia Fernández, member of the Ministry of Labour Workers' Union; File No: 115275; Prosecutor's Office: Section Prosecutor's Office 35, Economic Assets Unit, Cartagena; Offence: Rebellion; Arrest: Rafael Palencia Fernández, in a raid on 18 February 2003 and Robinson Beltrán Herrera was arrested on 22 February 2003 in Manizales.
- (4) Germán Robinson López: accused of the offences of rebellion and terrorism. A full complaint about this situation was made by the Nariño Teachers' Union, SIMANA. A letter was sent to the Attorney-General's Office concerning this matter seeking information on the investigation and the results thereof. On 28 April 2003, the Attorney-General's Office provided the following information: Drug trafficking: accused: Germán Robinson López Morillo (free), member of SIMANA; File No: 741; Prosecutor's Office: Section Prosecutor's Office 25, Ipiales; Offence: Drug Trafficking. The prosecutor's office decided not to order his detention. The case is awaiting completion of the investigation.
- (5) Teresa Báez Rodríguez: according to a letter from Mrs. Gloria Mansilla de Días, the arrest of the trade union official was at the orders of the Prosecutor's Office, on a charge of being involved in the crime of rebellion and after a raid on her house. In addition, about a year ago, when she was leaving a meeting at the Ministry of Labour in this town, several individuals tried to abduct her. On 20 February this year, she was the victim of a personal assault. The Bucaramanga Section Prosecutor's Office 8 is conducting the investigation, No. 170479, which is at the prosecution stage, against Teresa Báez, President of the SINTRACLINICAS trade union organization and an activist in the Single Confederation of Workers of Colombia (CUT), Santander branch, arrested in a raid on 5 March 2003 in the town of Bucaramanga, Santander, for the offence of rebellion.

Threats

- (1) Alvaro Enrique Villamizar Mogollon: the District Directorate, Prosecutor's Office, Bucaramanga reports that the investigation is being conducted under case No. 104943 in the Special Prosecutor's Office 5, Bucaramanga, and is at the preliminary stage, the complainant being Mr. Alvaro Enrique Villamizar and victims, members of the Union of Workers and Employees of the UIS.
- (2) Roberto Borja Rubiano. The DDHH in the Ministry of Social Security wrote on 11 April 2003 to the Attorney-General's Office seeking information on the investigation into this case and the results thereof. For its part, the Ministry of the Interior and Justice reported that Mr. Borja Rubiano had been provided with an Avantel and cell phone by the Risk Control and Assessment Committee (CRER) and with letter No. 38 of 1 March he had been given national tickets to remove urgently from the danger area. In a letter of 5 March, the CRER recommended that he should be given humanitarian assistance for three months. In addition, in a communication of 31 March 2003, the Ministry of the Interior reported that Mr. Borja Rubiano was a beneficiary of the protection programme and as a temporary security measure, he had had to be moved from the town of Barranquilla on 2 March 2003, because that town presented a level of risk considered by the DAS as medium-medium, and the CRER

approved the grant of a personal protection scheme which is now being put into effect.

- (3) Leonor Herreño Aguilar: with respect to the alleged threats received by Ms. Leonor Herreño in March this year, the Attorney-General's Office reported that the District Directorate, Prosecutor's Office, Bogotá, noted that on checking the Prosecutor's Office Judicial Information System (SIJUF), it was found that there was no investigation into alleged threats against Mr. Jesús Antonio González Luna, Alexander López Amaya and Leonor Herreño Aguilar.
- (4) Martha Cecilia Gomez Reyes: Ms. Reyes received a telephone call in her office on 22 February and another on 3 March 2003. Following that, the DDHH in the Ministry of Social Security wrote in March to Attorney-General's Office to obtain information as to the facts and to ascertain whether a criminal investigation was in progress, and what results it had yielded so far.
- (5) On 22 February, Wilson Castro Padilla, a member of SINALTRAINAL, was threatened in an anonymous letter made up of letters cut from newspapers which was found by his wife when she was about to open the door of her house. After appropriate inquiries, the Attorney-General's Office reported that the only record of threats against SINTRAINAL officials were those against Mr. Wilson Castro Padilla, containing the following information:

Offence:	Threats
Victim:	Wilson Castro Padilla
Place and date:	13 March 2003, in Cartagena
District directorate:	Cartagena
Responsible authority:	Section Prosecutor's Office 39
File No.:	115265
Stage:	Preliminary
Current status:	Active
Organization:	SINALTRAINAL
Position:	Member

- (6) With respect to the dismissal of 12 trade union officials from the Cartagena refinery, the Government, through the Ministry of Social Security, will evaluate the facts in order to institute an administrative labour investigation against ECOPETROL.

Assaults

On 20 February, at 1.30 p.m., when the trade union official and civic leader Elber Alberto Granja, ex-president of SINTRAMUNICIPIO YUMBO, and currently President of the Community Action Committee of the Municipality of Vijes, Valle del Cauca, was on the pavement outside his house; a person began to shoot at him. Following an inquiry by the Ministry of Social Security, the Attorney-General's Office reported that "at approximately 11.30 a.m. on 17 February 2003, an envelope arrived through the post containing a letter and a note threatening the president of the union, Gladis Barajas and her family. In this connection, the Human Rights Office of the Ministry of Social Security states that on 3 March Ms. Barajas informed the National Press that she was seeking exile, without mentioning any country in particular. Her children are in exile. The Attorney-General's Office was asked to provide information on this fact in particular. On 28 April 2003, the Attorney-General's Office stated: Victim: Gladys Barajas Osorio; Offence: Threats; Place and

date of incident: 17 February 2003, in Bogotá DC; File No. 676090; authority conducting the investigation: Section Prosecutor's Office 241, Bogotá, Personal Freedom Unit. It is at the preliminary stage and currently active.

- 226.** With respect to the handwritten letter of 28 March 2003 addressed by three trade union confederations to the ILO, headed "Colombia: freedom of association, between rhetoric and reality", the Government states that it contains no new allegations. The letter does not mention any alleged violations of freedom of association. The Government is not unaware of the difficulties that we face in strengthening freedom of association in the country. Hence the regular presence of the Vice-President of the Republic in the Governing Body, in an effort to demonstrate the priority that the Government attaches to the problem. That is how it was seen by the Governing Body and was translated into support for the special cooperation programme.
- 227.** The Government considers that the tripartite efforts under the auspices of the ILO to strengthen freedom of association in Colombia should not be underestimated.
- 228.** The Government invites the trade union confederations to continue to join their efforts to those of the State and civil society in favour of freedom of association, expressed in their constant and committed participation in the forums for dialogue available to address these initiatives, such as the Inter-institutional Commission for the Promotion and Protection of Human and Workers' Rights and the ILO's Dispute Settlement Committee. The National Government is sustained by the unshakeable conviction that the benefits of the programme of cooperation are leading to improved social dialogue in the country and strengthening of the social partners in overcoming their differences. That is why we take the opportunity to invite the members of the Governing Body to continue to support this endeavour and the workers to continue to lend their valuable support.
- 229.** In a communication of 29 April 2003, the Vice-President of the Republic sent observations and requested that they be recorded extensively. This communication is reproduced below:

Since it assumed power on 7 August 2002, the Government of President Alvaro Uribe has made every effort to build democratic security in Colombia, a commitment which allowed him to obtain the majority support of the Colombians.

In the process of carrying out this task, we undertook unprecedented efforts in order to give special protection to journalists, teachers and trade union leaders who have been particularly victimized by violence during the last years. Our democratic security policy progresses in strict observance of the law and a strong commitment by the Government and the State to the respect and protection of human rights.

As Head of the Government's policy on human rights and international humanitarian law, I came to the ILO on two occasions to present on behalf of the Government the information requested by the Organization and the Committee on Freedom of Association, regarding several important issues on labour and trade union activity in Colombia. We have also provided ample and detailed answers to the requests that the Committee on Freedom of Association makes in its reports.

In this respect, I would like to express our surprise and inconvenience at the fact that certain of these responses have not been reported, nor fully taken into account by the Freedom of Association Branch and by the Committee on Freedom of Association, with the consequences that result or may result from such acts for our country. In particular, we are especially concerned by the fact that the Governing Body members did not have adequate elements to enable them to draw conclusions on very important replies contained in Report No. 329 of the Committee on Freedom of Association, that is to say:

The consolidated list of victims: In its 329th Report the Committee on Freedom of Association "once again" requests the Government to send the consolidated list of victims for the period 1991-2000 [See 329th Report, para. 384, and 330th Report, para. 470]. This request is surprising since on 31 January 2001, in a special session, the sub commission set up

especially for this purpose, delivered the results of its work including the verification of 842 cases for that period. The fact that in the 329th Report this information is requested again from the Government leads us to indicate that the names of certain persons assassinated during that time, who were not trade union members or officials, have not been withdrawn from the list, which continues to be presented in the Committee's reports, with the consequences that follow from such fact.

Time limits to provide information: The Government's reply to the 329th Report of the Committee on Freedom of Association, Case No. 1787, was sent in January 2003 through electronic mail addressed to Mr. Jean Claude Javillier, with the additional statement that a further reply would be transmitted the following day, with complementary information from the Attorney General's Office. This reply would be more detailed and with a higher number of contested denunciations. On that day, the electronic mail was sent to ilo@.org addressed to Mr. Javillier. In fact, this additional response to the 329th Report was not taken into account by the Committee in its 330th Report. We are aware of the importance of respecting the necessary time periods so that the International Labour Office can put together, arrange and translate the information provided. But we do not understand why, if the Government provided additional information to the 329th Report on 16 January, that is to say, one day after the time limit set for this purpose, this information was not reflected in the text of the Report and instead additional workers' allegations presented one month later (3 February) were incorporated in this same Report. If the response of the Government had been incorporated in the Report in its entirety, the Organizations' constituents would have at their disposal better and more complete information in order to adopt the measures that they consider appropriate for the Colombian case.

Strike of 16 September: With regard to the recommendation made in the 329th Report, the Government sent in its reply all the information concerning the activities which took place during the strike of 16 September 2002, noting that the strike was staged in relatively normal circumstances and that there was no arrest by the authorities on that day. However, in the 330th Report of the Committee on Freedom of Association, the Committee once again requested information on the "detentions" which took place on 16 September and urges the Government to take measures to ensure that investigations are begun without delay on the detentions alleged by the complainants. We do not understand why a request of this nature is repeated in the 330th Report when we stated in the reply to the 329th Report that there have been NO such detentions. The inclusion and registration of the Government's response on this occasion would allow the Organization's constituents and in particular, the Governing Body members, to appreciate more clearly the important changes taking place in Colombia in the area of freedom of association.

Reinstatement order: On several occasions the Committee on Freedom of Association has requested the Government to reinstate dismissed workers. We have emphasized that such reinstatement pertains to the exclusive competence of the Republic's judiciary and can be requested only by the affected party. Nevertheless, the Freedom of Association branch continues to introduce this type of recommendation in the draft reports of the Committee on Freedom of Association. For obvious reasons we cannot acknowledge requests which violate our judicial order. Paying attention to such a request would be equivalent to the usurpation of the functions that belong to the judicial order according to the law. It appears to us that the inclusion of such recommendations in the reports could create a false impression to the recipients of the report, that the State may lack the political will to implement them.

To sum up, in order to comply with the proceedings established by the ILO, as is the will and decision of the Government, we consider fundamental that our responses be published in the reports in a timely and accurate fashion, since in subjects as sensible as these, any inaccuracy or omission can cause great damages when it comes to analysing and understanding our commitments and achievements on freedom of association in Colombia.

Finally, we request the Freedom of Association branch and through it, the Committee on Freedom of Association, to include the present communication word for word in an introductory paragraph of Case No. 1787 on the next occasion when this case will be included in the report of the Committee on Freedom of Association which is brought before the Governing Body.

D. The Committee's conclusions

230. *Although violence in Colombia affects all sectors of society, the Committee notes with profound regret that the allegations presented, refer to 11 victims of assassinations in 2003 (all trade union members) and that since the last examination of this case (March 2003) the complainant organizations have made 73 additional allegations of murders, eight detentions, seven death threats, abductions and attempted murders of trade union officials or members in 2002 and earlier. The Committee notes that the Government objects to the trade union capacity (or the death being connected to anti-trade union motives) of 30 persons mentioned in the allegations.*
231. *The Committee also notes from the extensive observations of the Government in which it referred to almost all the pending allegations, including the denunciations made until the present examination of the case, that in fact, the Government sent a detailed report on all the cases in which investigations have been initiated, and reported in particular on their current stage. The Committee also notes the information provided by the Government on protection measures extended to trade unionists.*
232. *The Committee observes that, with regard to the high number of allegations (51) under ongoing examination, the Government states that the information submitted by the complainants is not sufficient to identify the Public Prosecutor's offices which undertake the investigations and that when requested to provide additional information, the trade unions did not respond. In this respect, the Committee encourages the parties to cooperate fully and directly so that the Government may rapidly transmit detailed and comprehensive replies to the Committee. In general, the Committee recalls the complainants' duty to collaborate with the Government in order to provide the maximum amount of precisions possible in all cases where this is requested. Nevertheless, the Committee underlines that the complainants have communicated substantial information on many of the above-mentioned 51 allegations (on which the Government does not have enough precisions) and with renewed efforts from the Government it should be possible in any case to report whether investigations were instituted and in which stage they are.*

Information submitted by the Government with respect to the allegations found in the section "new allegations" of the 330th Report of the Committee

233. *The Committee observes that of the 31 allegations which include assassinations, abductions, acts of violence, attempted murders and threats:*
- *only one sentence was pronounced (murder of José Fernando Mena Alvarez, member of the Magdalena Teachers' Union EDUMAG);*
 - *21 cases are at the preliminary stage;*
 - *two cases are at the stage of prosecution;*
 - *with respect to seven allegations the Government did not send information on investigations under way (the Government indicates that the information provided by the complainants is not sufficient to trace the Prosecutor's offices which conduct the investigations and that the trade unions from which additional information was requested did not respond). These allegations are the following:*
 1. *Miguel Lora Gómez member of the Executive Board of the Workers' Confederation of Colombia (CTC), on 9 September 2002 (the place is not indicated).*

2. *Various workers of the Cali Municipal Enterprises Union (SINTRAEMCALI) (their names are not indicated) were assaulted by the police during the Permanent Assembly meeting on 1 October 2002. This case is under investigation by the Attorney General's Office.*
3. *Gerardo González Muñoz, member of FENSUAGRO-CUT, received threats (the place and date are not indicated).*
4. *Workers and trade unionists of the Energía de Arauca enterprise, threatened by paramilitaries (the names are not indicated).*
5. *In Arauca, threats against activists of the Teachers' Association (ASEDAR) and the National Association of Workers and Employees in Hospitals and Clinics (ANTHOC) (the names are not indicated).*
6. *Saúl Suárez Donado, activist of the Workers' Trade Union, threatened by paramilitaries. When he denounced this fact to the Human Rights Unit of the Attorney General's Office on 19 September 2002, he was detained on a charge of rebellion.*
7. *Mario de Jesús Castañeda President of the CUT-HUILA subcommittee, on 28 October 2002 for distributing leaflets concerning the national strike convened by the CUT.*

234. *With regard to these allegations, the Committee requests the complainants' organizations to provide further information.*

Information provided by the Government with respect to the allegations found in Annex I of the 330th Report (on which it had not communicated its observations or on which it had not reported that investigations or judicial proceedings had begun)

235. *With respect to 68 alleged murders:*

- *only one sentence was pronounced (case of Jaime Delgado Valencia, professor from Armenia);*
- *19 cases are at the preliminary stage;*
- *eight cases were dismissed (lack of evidence sufficient to continue with the investigation);*
- *six cases have been suspended or filed;*
- *on four cases the Government reports that the victims were not trade unionists according to the information provided by the trade unions;*
- *five cases are at the stage of prosecution;*
- *two cases are at the stage of indictment;*
- *on 23 cases the Government did not send information on the investigations under way (the Government states that the information provided by the complainants is not sufficient to trace the Prosecutor's offices which undertake the investigations and that*

the trade unions from which additional information was requested did not respond). These allegations of murder are the following:

1. *Edison Ariel, on 17 October 2000, SINTRAINAGRO trade union;*
2. *Ricardo Flórez, member of SINTRAPALMA, 8 January 2001;*
3. *Alberto Pedroza Lozada, on 22 March 2001;*
4. *Armando Buitrago Moreno, member of the National Association of Civil Servants and Judicial Employees, ASONAL, on 6 June 2001;*
5. *Francisco Espadín Medina, member of SINTRAINAGRO, on 7 September 2000, in the municipality of Turbo;*
6. *Raúl Gil member of SINTRAPALMA, on 11 February 2001, in the municipality of Puerto Wiches, department of Santander;*
7. *Manuel Ruiz, trade union official of CUT, on 26 September 2001, in the department of Córdoba;*
8. *Ramón Antonio Jaramillo, counselor of SINTRAEMSDES-CUT, on 10 October 2001, in the department of Valle del Cauca, while paramilitaries were carrying out a massacre in the region;*
9. *Arturo Escalante Moros, member of USO, disappeared on 27 September 2001 and was found dead on 19 October 2001 in Barrancabermeja, Santander;*
10. *Eduardo Edilio Alvarez Escudelo, member of the National Association of Civil Servants and Judicial Employees (ASONAL) on 2 July 2001 in Antioquia, by guerrilla forces;*
11. *Prasmacio Arroyo, member of the Magdalena Teachers' Union (SINTRASMAG), on 26 July 2001 in Magdalena;*
12. *César Bedoya Ortiz, activist of the University Teachers' Association (ASPU), on 16 August 2001 in Bolivar;*
13. *Plutarco Herrera Gómez, member of the Claims Committee of the National Union of Cargo Handlers in Colombian Maritime Ports, on 30 September 2001, in Valle del Cauca, by paramilitaries;*
14. *Milena Pereira Plata, ASINORTH, on 30 October 2001, in Santander, by the FARC;*
15. *Eriberto Sandoval, member of the National United Federation of Agricultural Workers (FENSUAGRO), on 11 November 2001, in Ciénaga, by paramilitaries;*
16. *Eliécer Orozco, FENSUAGRO, on 11 November 2001, in Ciénaga, by paramilitaries;*
17. *María Leida Montoya, activist of the Antioquia Teachers' Association, on 30 November 2001, in Antioquia;*
18. *Herlinda Blando, member of the Union of Teachers and Lecturers of Boyacá, on 1 December 2001 in Boyacá, by paramilitaries;*

19. *Alberto Torres, member of the Antioquia Teachers' Association (ADIDA), on 12 December 2001, in Antioquia;*
20. *Adolfo Flórez Rico, activist of the National Union of Workers in the Construction Industry (SINDICONS), on 7 February 2002, in Antioquia, by paramilitaries;*
21. *Alfredo González Páez member of the Association of Employees of INPEC (ASEINPEC), on 15 February 2002, in Tolima, by paramilitaries;*
22. *Oswaldo Meneses Jiménez ASEINPEC, on 15 February 2002, in Tolima, by paramilitaries;*
23. *Marcos Antonio Beltrán activist of SUTEV, on 1 March 2002, in Valle del Cauca.*

236. *As to these allegations, the Committee requests the complainant organizations to provide further information.*

237. *With respect to the 24 allegations of abductions and disappearances, the Government reports that:*

- *13 cases are at the preliminary stage;*
- *two cases were dismissed (for lack of sufficient information so as to continue with the investigation);*
- *two investigations were suspended;*
- *two cases were at the stage of prosecution;*
- *one abducted person was liberated;*
- *on four allegations the Government did not send information on the investigations under way (the Government states that the information provided by the complainants is not sufficient to trace the Prosecutor's offices which undertake the investigations and that the trade unions from which additional information was requested did not respond). These allegations are the following:*
 1. *Iván Luis Beltrán member of the executive committee of FECODE-CUT, on 10 October 2001;*
 2. *Germán Medina Gaviria, member of the Cali Municipal Enterprises Union (SINTRAEMCALI), on 14 January 2001, in the neighbourhood of El Porvenir, town of Cali;*
 3. *Marco Tulio Agudero Rivera ASONAL-CUT, in the municipality of Cocorna, on 5 October 2001;*
 4. *Arturo Escalante Moros member of the Workers' Trade Union (USO), on 27 September 2001.*

238. *As to these allegations, the Committee requests the complainant organizations to provide further information.*

239. *With respect to the seven allegations of attempted murder:*

- *three are at the preliminary stage;*
- *one was dismissed for lack of sufficient information;*
- *on three allegations, the Government did not send information on the investigations under way (the Government states that the information provided by the complainants is not sufficient to trace the Prosecutor's offices which undertake the investigations and that the trade unions from which additional information was requested did not respond). These allegations are the following:*
 1. *Hebert Cuadros, member of the Valle del Cauca Single Union of Education Workers (SUTEV), on 16 November 2001;*
 2. *the national headquarters of the Union of Electricity Workers of Colombia (SINTRAELECOL), on 8 July 2002 in Bogotá (the names of the victims are not indicated);*
 3. *César Andrés Ortiz, member of the CGTD, coordinator of the CGTD Working Youth, on 26 December 2000, shot at the back while he was walking in his neighborhood; one young person died during the attack and six other persons were injured.*

240. *With respect to these allegations, the Committee requests the complainant organizations to provide further information.*

241. *With respect to the 25 allegations of acts of violence, death threats and harassment:*

- *eight cases are at the preliminary stage;*
- *one case was dismissed (there was no sufficient evidence so as to continue with the investigation);*
- *the Government sent information on two cases;*
- *with respect to 14 allegations the Government did not send information on the investigations under way (the Government states that the information provided by the complainants is not sufficient to trace the Prosecutor's offices which undertake the investigations and that the trade unions from which additional information was requested did not respond). These allegations are the following:*
 1. *Henry Alberto Mosquera of the Trade Union of Workers of Yumbo municipality, under circumstances similar to those described above;*
 2. *Giovanni Uyazán Sánchez (death threats);*
 3. *Reinaldo Villegas Vargas, member of the "José Alvear Restrepo" Society of Lawyers;*
 4. *Rosario Vela, member of SINTRADEPARTAMENTO (death threats);*
 5. *numerous officials and members of FECODE;*
 6. *threats against SINTRAHOINCOL workers on 9 July 2001;*
 7. *Rusbel (the full name is not indicated), INCORA official, received death threats on 14 August 2001;*

8. *Jesús Tovar and Ildis Jarava, ANTHOC officials, have been followed by heavily armed men since 16 August 2001;*
9. *Jorge Eliécer Londoño, member of SINTRAEMSDES-CUT, received death threats on 2 November 2001;*
10. *death threats against trade union officials in Yumbo;*
11. *threats received at the headquarters of SINTRAHOINCOL;*
12. *Esperanza Valdés Amortegui, Treasurer of ASODEFENSA, victim of illegal espionage through the installation of microphones in her workplace;*
13. *Henry Armando Cuéllar Valbuena, harassed and physically assaulted;*
14. *Carlos González, President of the Union of University Workers of El Valle, assaulted by police, on 1 May 2001.*

242. *With respect to these allegations, the Committee requests the complainant organizations to provide further information.*

New allegations of the ICFTU

243. *With respect to the ICFTU communication dated 3 February 2003, which contains allegations of threats, assaults, murders of trade union officials, the detention of four officials, the refusal to provide protection to one official, and the non-compliance with the agreement concluded on 29 January 2002 between the Government, the workers of the Cali Municipal Enterprises (EMCALI) and the community of Cali, through which it had been established that the enterprises would not be privatized, the Committee notes that according to the Government:*

- *With respect to the assault against Nicolás Hernández Cabrera, general secretary of FENSUAGRO on 20 December 2003, the Attorney General's Office reported that the Prosecutor's Office 28 Chaparral District, Ibagué District Directorate, conducts the preliminary investigation, which is currently active.*
- *With respect to the murder of José Marcelino Díaz González, President of the College of Rectors and Directors (COLDIG), affiliated to the Arauca Teachers' Association (ASEDAR-FECODE), on 13 January 2003 in the Municipality of TAME, Arauca, the Attorney General's Office reported that the murder is being investigated by the sole Prosecutor's Office of Tame, Cúcuta District Directorate, File No. 2360, in the preliminary stage, currently active.*
- *With respect to the assassination of Abelardo Barbosa Páez, member of FENSUAGRO on 21 January 2003 in Santander, the murder is being investigated by the Prosecutor's Office 1 Bucaramanga District, Bucaramanga District Directorate (File No. 28969). The case is currently active at the stage of prosecution.*
- *With respect to the arrest and detention of Hernando Hernández, secretary of International Affairs of the USU and former Vice-President of the CUT, the investigation has been conducted by the Human Rights Prosecutor's Office 4, Human Rights National Directorate (File No. 1127B). The case is at the stage of prosecution on charges of rebellion. By a resolution dated 14 January 2002, it was decided to resolve the legal status of Hernando Hernandez Pardo by replacing the measure of*

preventive detention for rebellion with the measure of house arrest and a guarantee of five minimum wages. The investigation is ongoing and active.

- *With respect to the arrest and detention of Nubia Esther Gonzalez, officer of the Union of Small and Medium Agricultural Enterprises of Sucre (SINDAGRICULTORES), the Attorney General's Office reports the following: Offence: article 467 of Act No. 599 of 2000 on the crime of rebellion; File No.: 30132; Trade union members: Nubia Esther González and others (Jorge Gómez who was not related to the proceedings was released); Place and time: general area of the Don Gabriel community, jurisdiction of the Municipality of Ovejas, Sucre, 18 January 2003, at 9:00 a.m.; Prosecutor: Prosecutor's office 16 for the Circuit Penal Courts, assigned to the unit of economic resources, headquartered in Sincelejo. On 27 January 2003, the responsible Prosecutor's office refrained from imposing security measures to Nubia Esther González and ordered her immediate release.*
- *With respect to the arrest and detention of Policarpo Camacho and Gloria Holguín, directors of the Agricultural Union of the Municipality of Calarcá, the Government states that the case is under investigation by the Public Prosecutor's Office 20 URI Manizalez District, Department of Manizalez (File No. 74.368-1591). According to the indictment, Policarpo Camacho and Gloria Holguín are accused with the crime of rebellion. Security measures have been imposed on them and have been confirmed on appeal. The investigation is currently active.*
- *With respect to the withdrawal of the protection of Guillermo Rivera Plata, Vice-President of the National Union of Workers of the Agricultural and Fisheries Union (SINTRAINAGRO), the Ministry of the Interior and Justice reports that an individual security scheme was approved according to minutes No. 3 of 10 February 2000. At the moment, there is one vehicle (in working order), two guards, and two army weapons.*
- *With respect to the non-compliance with the agreement concluded on 29 January 2002 between the Government, the workers of the Cali Municipal Enterprises and the community of Cali, through which it had been established that the enterprises would not be privatized, the Government reports that this case is being examined by the Ministry of Social Protection.*

244. *The Committee requests the Government to continue keeping it informed of developments in these investigations, and to send its observations with respect to the alleged non-compliance with the accord of 29 January 2002 between the Government, the Municipal Enterprises of Cali and the community of Cali by which it had been decided not to privatize the enterprises.*

Freedom of association and human rights

245. *Even though it emphasizes the comprehensiveness of the Government's report, the Committee, taking into consideration the extreme gravity of the situation, deplores to observe that acts of violence against trade unionists continue and recalls that freedom of association can only be exercised in conditions in which fundamental human rights and in particular those relating to human life and personal safety, are fully respected and guaranteed [see **Digest of decisions and principles of the Freedom of Association Committee**, 4th edition, 1996, para. 46]. In particular, the Committee once again recalls that it would be advisable to deal specifically with situations in which violence against trade union members is very intensive – for example in the sectors including education, the petroleum industry, the health services as well as municipal and departmental administrations. Such information should also refer to regions where acts of violence*

occur most frequently, such as the departments of Valle del Cauca and Antioquía and the municipality of Barrancabermeja, especially in the Empresa de Petróleo de Colombia and the Empresa de Gas de Barrancabermeja.

Investigations

246. The Committee once again urges the Government to take immediate measures to institute investigations into all the alleged acts of violence and make significant progress on these investigations. In this respect, the Committee reiterates once more its request to the Government to continue sending its observations on the progress made in the investigations already begun on which the Government has sent its observations (Annex II) and to take measures to ensure that the corresponding investigations begin without delay into other murders, abductions, disappearances, attempted murders and threats referred to in Annex I (acts of violence against trade union officials or members up to the Committee's meetings of November 2002 for which the Government has not sent its observations or has not reported the initiation of investigations or judicial procedures) as well as those referred to in the section on "new allegations" in this report (with respect to the latter, the Government has not sent any information on only a few of the new allegations).

Impunity

247. The Committee deplores to observe that the extreme gravity of the situation is also reflected in the fact that the rate of sentences continues to be extremely low. In fact, after having examined the substance of this case on 26 occasions and having included this case in a special paragraph on six occasions (highlighting the gravity and urgency of the case and calling upon the attention of the Governing Body), the Committee has to conclude that only two sentences constitute a very small number relative to all the assassinations. Moreover, the Committee notes once more that the great majority of investigations is at the preliminary stage or has not gone beyond this stage. The Committee recalls once again that justice delayed is justice denied [see *Digest*, op. cit., para. 56].

248. The lack of investigations, the limited progress in the investigations already begun and the small number of sentences show a prevailing situation of impunity, which is not without influence upon the situation of violence affecting all sectors of society. The Committee requests once again the Government to take the necessary measures to put an end to the intolerable situation of impunity and punish effectively all those responsible.

Trade union status of certain victims

249. With respect to the trade union status of certain victims, the Committee notes that according to the information provided by the Government, the data provided by the corresponding trade union organizations indicates that Oswaldo Enrique Borja Martínez, Alberto Torres Saldarriga, César Arango Alvarez Escudelo, Nohora Elsy López and Roberto Carballo do not have trade union status. With respect to the other 25 victims on which the Government notes at the beginning of its reply that there was no proof that they were trade unionists, the Committee requests the complainant organizations to provide the necessary information to clarify this question.

Protection measures for certain trade unionists

250. The Committee takes note of the measures adopted to protect trade unionists under threat and requests the Government to continue and increase the protection of all trade unionists who are at risk and to continue keeping it informed on the evolution of the protection

programme and the “Working Plan of the Inter-Institutional Committee for the Prevention of Violations and the Protection of Workers’ Human Rights” to which it had referred at the last examination of this case.

Other questions

- 251.** *With respect to the allegations presented by the ICFTU on the threats and detentions of many trade union officials for having participated in the demonstration and strike of 16 September 2002, (it had been alleged that between 12 and 20 September the following trade union officials were detained: Raúl Herrera, regional official of SUMAPAZ, Rubén Robles, Secretary General of the Agricultural Workers’ Union of the Department of Sucre and official of FENSUAGRO, Ana María Andrea Ablanado and Daniel Bustos Gutiérrez, international delegates of the Spanish NGO SOLDEPAZ PACHAKUTTI, Mauricio Rubiano (who was released after having allegedly suffered ill-treatment), Human Rights Secretary of the CUT Youth Department, María Isabel Lenis, regional defender, Valle del Cauca Section, Otoniel Ramírez, President of the CUT Valle del Cauca branch, Berenice Celeita, President of NOMADESC, human rights organization, Oscar Figueroa and Angel Tovar, officials of the Cali Municipal Enterprises Union (SINTRAEMCALI). The Committee notes that the Government categorically denies these detentions and will not proceed with the examination of these allegations unless the complainant organizations provide new elements.*
- 252.** *With respect to the communication of the Vice-President of the Republic dated 29 April 2003 (received at the Office on 12 May 2003), which is reproduced in extenso pursuant to the request of the Government, the Committee wishes to emphasize the following points: (1) For practical reasons (excessive volume, need to make translations in various languages in limited periods, etc.) the complainants’ allegations and the Government’s replies are not extensively reproduced in the reports of the Committee and only a summary is provided; (2) The consolidated list of victims corresponds to the period 1991-2000; the request at the 329th Report referred in fact to the list for the period 1991-2002 just as indicated in the 328th Report (the 329th Report was confined to repeating this request, and due to a typing error, 1991-2000 appeared); the Committee adds that it is currently examining cases which correspond to the period 2000-2003 (see annexes to 329th and 330th Reports); (3) As to the Government’s statement that the Committee did not introduce into the 330th Report the electronic mail of the Government dated 16 January 2003, the Committee wishes to indicate that the secretariat of the ILO’s competent branch received a fax dated 16 January 2003 containing the following text:*

I inform you that as it has been impossible to transmit to your electronic mail the reply of the Colombian Government to the 329th Report of the Committee on Freedom of Association, the complete response has been transmitted to the email address: ilo@.org .

The response will be sent in printed form by special courier.

There is no proper proof of the reception of the electronic mail to which the Government refers in the records of the aforesaid branch. (4) With respect to the information requested from the Government (330th Report) on the investigations relative to detentions during the strike of 16 September 2003, the Committee wishes to emphasize that the complainant organization had mentioned the name of various trade unionists and activists which had been detained. Although the Government indicated in its response of 15 January 2003 that the strike passed by “with relative normality” it did not expressly refer to the occurrence or non-occurrence of detentions. Only in the communication of 29 April 2003, did the Government expressly indicate that “there was no such detention”; (5) With respect to the requests to reinstate the dismissed workers formulated by the Committee, the Committee is notes that, according to the Government, “reinstatement pertains to the exclusive competence of the Republic’s judiciary and can be requested only by the affected party”; nevertheless, the Committee emphasizes that in its 328th, 329th, and 330th Reports, it did not ask for any reinstatement in the framework of Case No. 1787; in other cases before the

Committee, the Government was requested (this is a common practice in similar conditions) to take measures for reinstatement; this includes both formal (if they belong to the competence of the Government) and informal measures (communication of the decisions of the Committee to the parties, reconciliation measures, good offices, etc.) and the Colombian Government has in fact adopted measures of this type in the past through the Ministry of Labour.

253. Finally, the Committee notes the communication of the national trade union confederations dated 28 March 2003, on the need to establish a commission of inquiry and the Government's reply to this communication.

The Committee's recommendations

254. In the light of the foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) Noting the comprehensiveness of the Government's report and taking into consideration the extreme gravity of the situation, the Committee regrets to observe that since the last examination of the case, 84 assassinations (in 11 of which the victims were trade union members and the facts related to 2003 and in 73 the victims were trade union officials and members and the facts related to 2002 and the preceding years), seven detentions and seven threats, have been denounced. The Committee recalls that freedom of association can only be exercised in conditions in which fundamental human rights, and in particular those relating to human life and personal safety, are fully respected and guaranteed.*
- (b) The Committee urges once again the Government to take immediate measures to institute investigations into all the alleged acts of violence and make significant progress on these investigations. The Committee reiterates once more its request to the Government to continue sending its observations on the progress made in the investigations already begun on which the Government has reported (Annex II) and to take measures to ensure that investigations begin without delay into other murders, abductions, disappearances, attempted murders and threats referred to in Annex I (acts of violence against trade union officials or members up to the Committee's meetings of November 2002 for which the Government has not sent its observations or has not reported the initiation of investigations or judicial procedures) as well as those referred to in the section on "new allegations" in this report (with respect to the latter, the Government has not sent any information on only a few of the new allegations).*
- (c) The Committee encourages the parties to cooperate fully and directly so that the Government may rapidly transmit detailed and comprehensive replies to the Committee. The Committee recalls the complainants' duty to collaborate with the Government in order to provide the maximum amount of precisions possible in all cases where this is requested. Nevertheless, the Committee underlines that the complainants have communicated substantial information on many of the 51 allegations (on which the Government does not have enough precisions) and with renewed efforts from the Government it should be possible in any case to report whether investigations were instituted and in which stage they are.*

- (d) *The Committee requests once again the Government to take the necessary measures to put an end to the intolerable situation of impunity and punish effectively all those responsible.*
- (e) *With respect to the trade union status of 25 victims objected to by the Government, the Committee requests the complainant organizations to provide the information necessary to clarify this question.*
- (f) *The Committee also requests the Government to continue and increase the protection of all trade unionists who are at risk and to continue keeping it informed on the evolution of the protection programme and the “Working Plan of the Inter-Institutional Committee for the Prevention of Violations and the Protection of Workers’ Human Rights” to which it had referred at the last examination of this case.*
- (g) *The Committee once again recalls that it would be advisable to deal specifically with situations in which violence against trade union members is very intensive – for example in the sectors including education, the petroleum industry, the health services as well as municipal and departmental administrations. Such information should also refer to regions where acts of violence occur most frequently, such as the departments of Valle del Cauca and Antioquía and the municipality of Barrancabermeja, especially in the Empresa de Petróleo de Colombia and the Empresa de Gas de Barrancabermeja.*
- (h) *With respect to allegations of threats, assaults, murder of trade union officials, the detention of four officials, the refusal to provide protection to one official, presented by the ICFTU on 3 February 2003, the Committee requests the Government to continue keeping it informed on the evolution of these investigations.*
- (i) *With respect to the non-compliance with the agreement concluded on 29 January 2002 between the Government, the workers of the Cali Municipal Enterprises (EMCALI) and the community of Cali, through which it had been established that the enterprises would not be privatized, the Committee requests the Government to send its observations in this respect.*

Annex I

Alleged acts of violence against trade union officials or members up to the Committee’s meeting of March 2003 for which the Government has not sent its observations or has not reported the initiation of investigations or judicial procedures in particular for having considered insufficient the information submitted by the complainants

Murders

- (1) Edison Ariel, 17 October 2000, SINTRAINAGRO;

- (2) Francisco Espadín Medina, member of SINTRAINAGRO, 7 September 2000, in the municipality of Turbo;
- (3) Ricardo Florez, member of SINTRAPALMA, 8 January 2001;
- (4) Raúl Gil, member of SINTRAPALMA, 11 February 2001, in the municipality of Puerto Wilches;
- (5) Alberto Pedroza Lozada, 22 March 2001;
- (6) Ramón Antonio Jaramillo, prosecutor of SINTRAEMSDES-CUT, on 10 October 2001, in the Department of Valle del Cauca, when paramilitaries were carrying out a massacre in the region;
- (7) Arturo Escalante Moros, member of USO, disappeared on 27 September and found dead on 19 October 2001;
- (8) Armando Buitrago Moreno, member of the National Association of Officials and Employees of the Judicial Branch (ASONAL), 6 June 2001;
- (9) Julián Ricardo Muñoz, member of the National Association of Officials and Employees of the Judicial Branch (ASONAL), 6 June 2001, in Bogotá;
- (10) Eduardo Edilio Alvarez Escudelo, member of the National Association of Civil Servants and Judicial Employees (ASONAL), on 2 July 2001, in Antioquia, by guerrilla forces;
- (11) Prasmacio Arroyo, member of the Magdalena Teachers' Union (SINTRASMAG), on 26 July 2001, in Magdalena;
- (12) César Bedoya Ortiz, activist of the University Teachers' Association (ASPU), on 16 August 2001, in Bolívar;
- (13) César Arango Mejía, member of the National Association of Civil Servants and Judicial Employees (ASONAL), on 24 August 2001, in Risaralda;
- (14) Plutarco Herrera Gómez, member of the Claims Committee of the National Union of Cargo Handlers in Colombian Maritime Ports, on 30 September 2001, in Valle del Cauca, by paramilitaries;
- (15) Milena Pereira Plata, ASINORTH, on 30 October 2001, in Santander, by the FARC;
- (16) Eriberto Sandoval, member of the National United Federation of Agricultural Workers (FENSUAGRO), on 11 November 2001, in Ciénaga, by paramilitaries;
- (17) Eliécer Orozco, FENSUAGRO, on 11 November 2001, in Ciénaga, by paramilitaries;
- (18) María Leida Montoya, activist of the Antioquia Teachers' Association, on 30 November 2001, in Antioquia;
- (19) Herlinda Blando, member of the Union of Teachers and Lecturers of Boyacá, on 1 December 2001 in Boyacá, by paramilitaries;
- (20) Alberto Torres, member of the Antioquia Teachers' Association (ADIDA), on 12 December 2001, in Antioquia;
- (21) Adolfo Flórez Rico, activist of the National Union of Workers in the Construction Industry (SINDICONS), on 7 February 2002, in Antioquia, by paramilitaries;
- (22) Alfredo González Páez, member of the Association of Employees of INPEC (ASEINPEC), on 15 February 2002, in Tolima, by paramilitaries;
- (23) Oswaldo Meneses Jiménez, ASEINPEC, on 15 February 2002, in Tolima, by paramilitaries;
- (24) Marcos Antonio Beltrán, activist of SUTEV, on 1 March 2002, in Valle del Cauca;
- (25) Jorge Alberto Alvarez, member of SUTIMAC, on 6 August 2001 in the outskirts of Santa Bárbara;
- (26) César Gómez, President of the Pamplona Subcommittee of the National Union of University Workers of Colombia (SINTRAUNICOL), on 5 September 2002, in the municipality of Pamplona, Department of North Santander;

Abductions and disappearances

- (1) Germán Medina Gaviria, member of the Cali Municipal Enterprises Union (SINTRAEMCALI), on 14 January 2001, in the neighbourhood of El Porvenir, town of Cali;
- (2) Marco Tulio Agudero Rivera, ASONAL-CUT, in the municipality of Cocorna, on 5 October 2001;
- (3) Iván Luis Beltrán, member of the executive committee of FECODE-CUT, on 10 October 2001;
- (4) Arturo Escalante Moros, member of the Workers' Trade Union (USO), on 27 September 2001;
- (5) Victor Manuel Jiménez Frutos, Vice-President of the Agricultural Workers' Union of the Department of Atlántico (SINTRAGRICOLAS-FENSUAGRO-CUT), disappeared on 22 October 2002, in the municipality of Ponedera, Department of Atlántico;
- (6) Ramón Alzate, Javier Agudelo, Jhon Jairo Sánchez and Rafael Montoya, members of SUTIMAC, were abducted on 6 April 2001 and released on 11 April.

Attempted murders

- (1) César Andrés Ortiz, member of the CGTD, on 26 December 2000;
- (2) Hebert Cuadros, member of the Valle del Cauca Single Union of Education Workers (SUTEV), on 16 November 2001;
- (3) the national headquarters of the Union of Electricity Workers of Colombia (SINTRAEECOL), on 8 July 2002 in Bogotá;

Death threats

- (1) Giovanni Uyazán Sánchez;
- (2) Reinaldo Villegas Vargas, member of the "José Alvear Restrepo" Society of Lawyers;
- (3) the following officials and members of USO: Carlos Oviedo, César Losa, Ismael Ríos, Julio Saldaña, Ladislao Rodríguez, Luis Linares, Rafael Ortiz, Ramiro Luna;
- (4) Rosario Vela, member of SINTRADEPARTAMENTO;
- (5) numerous officials and members of FECODE;
- (6) against SINTRAHOINCOL workers on 9 July 2001;
- (7) Rusbel, INCORA official, on 14 August 2001;
- (8) Jesús Tovar and Ildis Jarava, ANTHOC officials, were followed by heavily armed men from 16 August 2001;
- (9) Jorge Eliécer Londoño, member of SINTRAEMSDES-CUT, received death threats on 2 November 2001;
- (10) against trade union officials in Yumbo;
- (11) the headquarters of SINTRAHOINCOL;
- (12) against the officials of the Cali Municipal Enterprises Union (SINTRAEMCALI): Alexander López Maya, Luis Hernández and the other members of the executive committee received a communication from paramilitary groups;
- (13) Gerardo González Muñoz, member of FENSUAGRO-CUT;
- (14) workers and members of the Arauca Power Company, by paramilitaries;
- (15) in Arauca, activists of the Teachers' Association (ASEDAR) and National Association of Workers and Employees in Hospitals and Clinics (ANTHOC);

- (16) Saúl Suárez Donado, activist of the Workers' Trade Union, by paramilitaries: when he complained of the incident to the Human Rights Unit in the Attorney-General's Office, on 19 September 2002, he was detained on a charge of rebellion;
- (17) Efraín Holguín, Fernando Trujillo Lozada and José Eduardo Villa Garzón, officials of the Workers' Union of the Empresa de Acueducto y Alcantarillado of Bogotá (SINTRACUEDUCTO-CUT), in October 2002.

Harassment

- (1) Esperanza Valdés Amortegui, Treasurer of ASODEFENSA, victim of illegal espionage through the installation of microphones in her workplace;
- (2) Henry Armando Cuéllar Valbuena, harassed and physically assaulted;
- (3) Carlos González, President of the Union of University Workers of El Valle, assaulted by police, on 1 May 2001;
- (4) Mario de Jesús Castañeda, President of the CUT-HUILA subcommittee, on 28 October 2002 for distributing propaganda concerning the national strike convened by the CUT.

Sending civilians to war zones

In the Ministry of Defence, as a means of anti-trade union harassment, civilians continue to be forced to go to war zones wearing military uniform, without weapons or military training. The following people have been subjected to this:

- (1) Carlos Julio Rodríguez García, member of ASODEFENSA;
- (2) José Luis Torres Acosta, member of ASODEFENSA;
- (3) Edgardo Barraza Pertuz;
- (4) Carlos Rodríguez Hernández; and
- (5) Juan Posada Barba.

Detentions

On 19 October 2001, the following USO officials (active and retired): Edgar Mojica, Luis Viana, Ramón Rangel, Jairo Calderón, Alonso Martínez and Fernando Acuña, former President of FEDEPETROL.

Annex II

Alleged acts of violence against trade union officials or members for which the Government has sent its observation

Carlos Cordero; Gabriela Galeano; Elsa Clarena Guerrero; Alfonso Alejandro Naar Hernández; Jesús Antonio Ruano; Leyder María Fernández Cuellar; Edgar Thomas Angarita Mora; Manuel Pájaro Peinado; Fernando Euclides Serna Velásquez; Yolanda Paternina Negrete; Miguel Chávez; Manuel Ruiz; Ana Ruby Orrego; Cristóbal Uribe Beltrán; Prasmacio Arroyo; Efraín Toledo Guevara; César Arango Mejía; Luis Ernesto Camelo; Marcelina Saldarriaga; Gilberto Arbeláez Sánchez; Jacobo Rodríguez; Juan David Corzo; Bibiana María Gómez Bedoya; Antonio Mesa; Germán Elías Madrigal; Gustavo Castellón Fuentes; Edith Manrique; Jorge Julio Céspedes; Luis Alfonso Gaviria Meneses; Generoso Estrada Saldarriaga; Germán Darío Ortiz Restrepo; James Estrada; Rubí Moreno; Víctor Alberto Triana; Walter Oñate; Oscar Jaime Delgado Valencia; Oswaldo Enrique Borja Martínez; Nohora Elsy López; José Wilson Díaz; Cecilia Gallego; Roberto Carballo; Eduardo Chinchilla Padilla; Luis Miguel Rubio Espinel; José González Barros; Adolfo de

Jesús Munera López; Oswaldo Moreno Ibagüe; Oscar de Jesús Payares; Alfonso Morelly Zárate; Gema Lucía Jaramillo; José Fernando Mena Alvarez; Oscar David Polo Charry; Jairo Vera; Ismael Ortega; Walter Arturo Velásquez Posada; Nefatalí Romero Lombana; Julio César Jaraba; Paula Andrea Gómez Mora; Eumelia Aristizabal; Rosa Cecilia Lemus Abril; six workers in public enterprises in Medellín belonging to SINTRAEMSDES; Julio Enrique Carrascal Puentes; Winsgton Jorge Tovar; Alvaro Alberto Agudel Usuga; Jorge Feite Romero; Ricaurte Jaunten Pungo; Alvaro Laiton Cortés; Carlina Ballesteros; Hugo Alberto Peña Camargo; Hernando Silva; Miguel Angel Rendón Graciano; Gonzalo Ramírez Triana; on 20 August 2002 the following 27 individuals were abducted in the Department of Chocó; including a number of retirees and workers of the Cali Municipal Trade Union: Flower Enrique Rojas; President of the Cali Trade Union of Workers (SINTRAMUNICIPIO); María del Carmen Rendón; Jair Rendón; Antonio Bejarano; Henry Salcedo; Diego Valencia; Carlos Salinas; Beatriz Orozco; Soledad Fals; Elécer Ortiz; Jaime Sánchez Ballén; Pedro Potosí; Oscar Ivan Hernández; Gerardo Machado; Néstor Naráez; Libaniel Arciniegas; all members of the union; Héctor Fabio Monroy; attempted murder against the executive committee of SINTRAEMCALI; Clemencia del Carmen Burgos; Omar García Angulo; Henry Alberto Mosquera; Ricardo Valbuena; Juan de la Rosa Grimaldos; Jorge Nisperuza; Gerardo Rodrigo Genoy Guerrero; José Rodrigo Orozco; Leonel Pastas; Edgar Púa and José Meriño; Edgar Mojico and Daniel Rico; Domingo Rafael Tovar Arrieta; Henry Ocampo; the Cartagena branch of the National Union of Workers in the Food Industry (SINALTRAINAL); Eduardo Camacho Rugeles; Carlos Dimate; Antonio Guerrero; Demetrio Guerrero; Marcos Moreno; Diógenes Correa; Gustavo Guamanga; Nicolás Acevedo Cuartas; Willain Mendoza; the Executive Committee of SUTIMAC; Jesús Antonio González.

CASE NO. 2068

INTERIM REPORT

Complaints against the Government of Colombia presented by

- **the General Confederation of Democratic Workers (CGTD)**
- **the General Confederation of Democratic Workers (CGTD) Antioquia Branch**
- **the Single Confederation of the Workers of Colombia (CUT), Antioquia Executive Board and**
- **25 other Colombian trade unions**

Allegations: Dismissal of workers in the Textiles Rionegro enterprise, denial of trade union leave in the Santa Fe de Bogotá administration; refusal to reinstate FAVIDI trade union officers notwithstanding a court order; refusal to negotiate a collective labour agreement and violation of the right to strike in the Banco Popular alleged by UNEB; banning of a meeting of ASEINPEC, denial of appeals for protection of constitutional rights aimed to protect the trade union immunity of a number of officers of ASEINPEC, refusal to return the offices of the organization and various anti-union acts.

255. The Committee last examined this case at its November 2002 meeting [see 329th Report, paras. 418-447].

- 256.** The National Union of Bank Employees (UNEB) presented new allegations in a communication dated 29 November 2002. The Trade Union Association of Employees of the National Penitentiary and Prison Institute (ASEINPEC) sent new allegations in a communication dated 20 March 2003.
- 257.** The Government sent its observations in communications dated 2, 15 and 16 January and 18 February 2003.
- 258.** Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), as well as the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154).

A. Previous examination of the case

259. At its November 2002 meeting, the Committee formulated the following recommendations [see 329th Report, para. 447]:

- (a) as regards the dismissal of 34 workers of Textiles Rionegro and the allegations of violation of the right to strike presented by UNEB, the Committee requests the Government to inform it without delay of the investigations carried out and any judicial measures adopted;
- (b) as regards: (a) the denial of trade union leave and subsequent dismissal of trade union officers for having taken such leave in the Santa Fe de Bogotá administration; (b) the dismissal of trade union officers and members of the Puerto Berrio municipality; (c) the proceedings to lift trade union immunity at the Radio Difusora Profesional Ltda. – TODELAR; and (d) the persecution alleged by SINTRAINFANTIL, ASTRABAN and SINTRASMAG, the Committee requests the Government to continue keeping it informed in this respect;
- (c) as regards the dismissal of María Librada García, the Committee requests the Government to keep it informed of the results of the administrative labour investigation initiated by the Casanare Regional Directorate for Labour and Social Security against the Yopal Town Council;
- (d) as regards the ruling handed down on 12 August 1999 by the Superior Court of the Bogotá Judicial District revoking the reinstatement of FAVIDI leaders Lucy Janeth Sánchez and Ana Elvira Quiroz de Martín, the Committee requests the Government to transmit a copy of the revocation ruling and to inform it whether this ruling has become final and, if not, whether an appeal has been lodged against it;
- (e) ...
- (f) as regards the allegations submitted by ADEM on the violation of the agreement under which the Government had undertaken to reinstate the 83 workers enjoying trade union protection, and on the lack of consultations during the administrative restructuring process initiated by the Council of Medellín, the Committee requests the Government to send its observations in this respect;
- (g) as regards the additional allegations presented by ADEM, and the allegations presented by SINTRASINTETICOS and SINTRATEXTIL, the Committee requests the Government to send its observations on the allegations without delay (these allegations are as follows:

the Official Employees' Association of the Municipality of Medellín (ADEM) and the Public Employees' Trade Union of the Municipality of Medellín (SIDEM) allege: (a) the subcontracting of new employees, deprived of the right to freedom of association, to do the work formerly done by the dismissed workers; (b) the lack of consultation in the administrative restructuring process launched by the Council of Medellín in March 2001; and (c) the mayor's threats to punish all participants in the strike called for 6 March 2001 in response to the failure to comply with the Memorandum of Understanding;

the Trade Union of Workers of Sintéticos S.A. (SINTRASINTETICOS) alleges: (a) pressure and threats by the Odyssey Limited enterprise to force workers to leave the union; (b) interference by the enterprise in internal union matters; (c) delays in the settlement of proceedings before tribunals relating to violation of freedom of association; (d) sanctions against trade union leaders for making use of trade union leave; and (e) the enterprise's refusal to hold meetings for collective bargaining;

the National Union of Textile Industry Workers (SINTRATEXTIL) alleges: (a) in the Fabricato enterprise: (1) there is violation of the collective agreement; (2) trade union leave is denied; and (3) trade union leaders are denied access to the premises; (b) in the Enka enterprise: (1) non-fulfilment of agreements concluded between the president of the company and the trade union; (2) violation of the collective agreement through the conclusion of contracts with companies to conduct work directly covered by the collective agreement; (3) distribution of the hardest tasks to unionized workers; (c) in the Coltejer enterprise: dismissals on the grounds of restructuring, in violation of a collective agreement; and (d) in the Textiles Rionegro enterprise: (1) favouritism towards one of the enterprise trade unions to the detriment of the industry union; and (2) violation of the collective agreement);

- (h) the Committee requests the Government to send its observations urgently in respect of the allegations of murder of trade union leaders Jesús Arley Escobar, Fabio Humberto Burbano Córdoba, Jorge Ignacio Bohada Palencia and Jaime García, in order that it may formulate its recommendations in full possession of the facts.

B. New allegations

260. In its communication of 29 November 2002, the National Union of Bank Employees (UNEB) alleges that, having denounced the collective labour agreement, a new list of demands was submitted, but as soon as the settlement period had expired on 1 November 2002, the authorities of the Banco Popular requested a summons to the Compulsory Arbitration Court. For this reason, the workers of the Banco Popular called for a strike to take place on 3 December 2002.

261. In its communication of 20 March 2003, the Trade Union Association of Employees of the National Penitentiary and Prison Institute (ASEINPEC) states: (1) in order to elect a new executive committee, members were called to a meeting, which was prohibited because of, according to the Government, the state of internal unrest throughout the country, the corresponding legal proceedings were begun but these were closed; (2) denial of appeals for protection of constitutional rights begun by the trade union organization in order to protect the trade union immunity of a number of trade union officials of ASEINPEC; (3) in spite of a judicial order ordering the return of the offices of ASEINPEC located in the central factory, the director of the National Penitentiary and Prison Institute (INPEC) gave instructions to prevent trade union officials from entering the offices, which forced the trade union to rent other premises; (4) the dismissals of many trade union officials continued and the director of INPEC indicated that it was not possible to reinstate these people, an appeal for protection of constitutional rights was lodged and this was denied by the legal authorities; and (5) other anti-union measures such as transfers and requests for transfers, moves to lift trade union immunity and disciplinary measures without due process.

C. The Government's reply

262. In its communications dated 2, 15 and 16 January and 18 February 2003, the Government states the following:

■ **Paragraph (a) of the Committee's recommendations at its November 2002 meeting**

As regards the refusal to negotiate a new collective labour agreement and the violation of the right to strike presented by the National Union of Bank Employees (UNEB) in the previous examination of the case and in the new allegations, the Government states that it signed a collective labour agreement between UNEB and the Banco Popular.

■ **Paragraph (b) of the Committee's recommendations**

As regards the denial of trade union leave and subsequent dismissal of trade union officers of the Trade Union of Public Employees of the Transit and Transport Secretariat (SETT) for having taken leave, the Government states that it began an administrative labour inquiry and that the head of the Inspection and Surveillance Division of the Santa Fe de Bogotá and Cundinamarca Regional Directorate of Labour issued resolution No. 000801 of 31 March 1998 which states that no violation of labour standards was found to have been made by the Transit and Transport Secretariat of Santa Fe de Bogotá. The Government adds that legal recourse for annulment and appeal were lodged against the aforementioned resolution and that these were rejected by resolution No. 001385 of June 1998 as they did not fulfil the requirements laid down by the Code for Administrative Litigation.

■ **Paragraph (c) of the Committee's recommendations**

As regards the dismissal of María Librada García, the Government states that the ruling handed down by the Honourable Council of State with regard to the action for protection of constitutional rights lodged by the complainant decided to turn the file over to the Court of First Instance in order to ensure due process.

■ **Paragraph (d) of the Committee's recommendations**

As regards the ruling handed down on 12 August 1999 by the Superior Court of the Bogotá Judicial District revoking the reinstatement of FAVIDI leaders Lucy Janeth Sánchez and Ana Elvira Quiroz de Martín, the Government states that this ruling has become *res judicata*.

■ **Paragraph (f) of the Committee's recommendations**

As regards the allegations submitted by the Official Employees' Association of the Municipality of Medellín (ADEM) on the violation of the agreement under which the Government had undertaken to reinstate the 83 workers enjoying trade union protection, and on the lack of consultations during the administrative restructuring process initiated by the Council of Medellín, the Government refers to its reply in July 2002 in which it states that it took careful note of the allegations and sent them to the Human Rights Office of the Ministry of Labour and Social Security.

■ **Paragraph (g) of the Committee's recommendations**

As regards the allegations presented by the Trade Union Association of Employees of the National Penitentiary and Prison Institute (ASEINPEC), relating to the constant threats received by trade union leaders, anti-union persecution through measures against union leaders including sanctions, disciplinary proceedings and transfers, the dismissal of union leaders in violation of trade union immunity, the suspension of trade union leaders without pay for having conducted a peaceful demonstration and pressure on members to leave the union, the Government states that the Cundinamarca Territorial Director in resolution No. 01072 of 24 July 2001 fined the National Penitentiary and Prison Institute (INPEC) the amount of 50 legal minimum wages for violation of article 405 of the Labour Code which establishes protection of

trade union immunity. Moreover, the general management of INPEC issued resolution No. 02101 of 6 July 2001 accepting the decision of the Superior Court of the Judicial District of the Department of Quindío, which ordered the reinstatement of INPEC employees.

- **Paragraph (h) of the Committee's recommendations**

As regards the murders of trade union leaders Jesús Arley Escobar, Fabio Humberto Burbano Córdoba, Jorge Ignacio Bohada Palencia and Jaime García, the Government states that in accordance with the general report of investigations carried out by the Attorney-General's Office on violations of trade union members' human rights, three of the investigations are in the preliminary stages and the investigation relating to the murder of Jorge Ignacio Bohada Palencia has issued a resolution of indictment against Hugo Antonio Toro Restrepo, alias Comandante Bochica, who is a fugitive from justice.

D. The Committee's conclusions

263. *The Committee observes that when it analysed this case concerning acts of anti-union discrimination and harassment at its November 2002 meeting, it had requested the Government to take certain measures or communicate information in respect of these matters [see 329th Report, para. 447].*

- **Paragraph (a) of the Committee's recommendations at its November 2002 meeting**

The Committee notes with interest that with regard to the collective dispute between the Banco Popular and the National Union of Bank Employees (UNEB), the Government states that it has endorsed a collective agreement.

With regard to the dismissal of 34 workers of Textiles Rionegro, the Committee regrets to note that, in spite of the time that has passed, the Government has still not sent its observations. The Committee once again requests the Government to carry out the relevant investigations without delay, to inform it of any legal proceedings begun and to send its observations on the current situation in respect of these workers.

- **Paragraph (b) of the Committee's recommendations**

As regards the denial of trade union leave and subsequent dismissal of trade union officers of the Transit and Transport Secretariat of Bogotá (SETT) for having taken trade union leave, the Committee notes the Government's statement that an administrative labour investigation has begun and that by resolution No. 000801 of 31 March 1998 it was decided that there had been no violation of labour standards by the Transit and Transport Secretariat of Santa Fe de Bogotá; the legal recourse taken against the aforementioned resolution was defeated as it did not comply with the prerequisites laid down by the Code for Administrative Litigation in resolution No. 001385 of June 1998. The Committee regrets that, in spite of the time which has elapsed and following the examination of these allegations on two occasions, the Government has only now communicated this information to the Committee.

- **Paragraph (c) of the Committee's recommendations**

As regards the dismissal of María Librada García, a trade union official of SINTRAYOPAL, the Committee notes the Government's statement that the ruling handed down by the Honourable Council of State with regard to the action for protection of constitutional rights lodged by the complainant, decided to turn the file over to the Court of First Instance in order to ensure that due process was observed

with regard to her dismissal. The Committee requests the Government to keep it informed of the outcome of the legal proceedings and hopes that these proceedings will be concluded in the near future.

■ **Paragraph (d) of the Committee's recommendations**

As regards the ruling handed down on 12 August 1999 by the Superior Court of the Bogotá Judicial District revoking the reinstatement of FAVIDI leaders Lucy Janeth Sánchez and Ana Elvira Quiroz de Martín, ordered by the 18th Labour Circuit Court on 30 October 1998, the Committee notes that the Government states that this ruling is *res judicata*. The Committee therefore understands that the parties have not lodged appeals against this ruling.

■ **Paragraph (f) of the Committee's recommendations**

As regards the allegations presented by the Official Employees' Association of the Municipality of Medellín (ADEM) on the violation of the agreement under which the Government had undertaken to reinstate the 83 workers enjoying trade union protection, and on the lack of consultations during the administrative restructuring process initiated by the Council of Medellín, the Committee notes that the Government refers to a reply of July 2002 in which it states that it took careful note of the allegations and sent them to the Human Rights Office of the Ministry of Labour and Social Security. The Committee recalls that in its previous examination of the case it had noted that taking into account the nature of some of the allegations (in particular those relating to anti-union dismissals, lack of consultation in restructuring processes), the Human Rights Office would perhaps not be the proper body to deal with them and that they should be dealt with by the labour justice system. The Committee emphasizes to the Government the importance that the agreement relating to the reinstatement of the 83 workers in question is fulfilled. The Committee recalls moreover that it is important that governments consult with trade union organizations to discuss the consequences of restructuring programmes on the employment and working conditions of employees [see *Digest of decisions and principles of the Freedom of Association Committee*, 4th edition, 1996, para. 937].

■ **Paragraph (g) of the Committee's recommendations**

As regards the allegations presented by the Trade Union Association of Employees of the National Penitentiary and Prison Institute (ASEINPEC) in the previous examination of the case and the new allegations relating to: (a) the constant threats received by the union's leaders; (b) anti-union persecution through measures against union leaders including sanctions, disciplinary proceedings and transfers; (c) the dismissal of union leaders in violation of trade union immunity; (d) the suspension of trade union leaders without pay for having conducted a peaceful demonstration; (e) pressure on members to leave the union; and (f) the refusal by the director of the National Penitentiary and Prison Institute (INPEC) to return the offices of the trade union organization, in spite of a legal ruling ordering this, the Committee notes that the Cundinamarca Territorial Director in resolution No. 01072 of 24 July 2001 fined INPEC the amount of 50 legal minimum wages and the general management of INPEC issued resolution No. 02101 of 6 July 2001 accepting the decision handed down by the Superior Court of the Judicial District of the Department of Quindío that ordered the reinstatement of INPEC employees. The Committee notes, however, that according to the new allegations presented by the complainant organization, INPEC has still not reinstated any trade union officials and continues to carry out acts of anti-union discrimination. The Committee requests the Government to ensure that INPEC complies with the legal ruling ordering the reinstatement of the trade union officials dismissed and to take the necessary steps to ensure that the offices of ASEINPEC are returned to the trade union organization without delay, complying

with the ruling of the legal authority. The Committee requests the Government to keep it informed in this respect and to reply to the other allegations without delay.

■ **Paragraph (h) of the Committee's recommendations**

As regards the allegations of murder of trade union leaders Jesús Arley Escobar, Fabio Humberto Burbano Córdoba, Jorge Ignacio Bohada Palencia and Jaime García, the Committee notes the investigations begun by the Attorney-General's Office on violations of trade union members' human rights and that in the case of Mr. Bohada Palencia, one of the accused is a fugitive. The Committee requests the Government to take the necessary steps to ensure that these investigations will allow those responsible for these murders to be punished in the near future and to keep it informed in this respect. These questions will be dealt with further in Case No. 1787.

264. *As regards the other allegations presented by ADEM, the Trade Union of Workers of Sintéticos S.A. (SINTRASINTETICOS) and the National Union of Textile Industry Workers (SINTRATEXTIL), the Committee regrets once again that the Government has not sent its observations. The Committee recalls that these allegations refer in general to the violation of Conventions and agreements, the collective dismissal of trade union members and the subcontracting of other workers who do not enjoy freedom of association, and threats and sanctions against those who resort to strike action. The Committee requests, therefore, that the Government send its observations without delay so that it may formulate its conclusions in full possession of the facts.*

265. *Finally, the Committee notes the high number of acts of anti-union discrimination alleged in this case. The Committee recalls once again, and in a general manner, that "no person should be dismissed or prejudiced in his or her employment by reason of trade union membership or legitimate trade union activities, and it is important to forbid and penalize in practice all acts of anti-union discrimination in respect of employment" [see **Digest**, op. cit., para. 748]. The Committee also recalls that where cases of alleged anti-union discrimination are involved, the competent authorities dealing with labour issues should begin an inquiry immediately and take suitable measures to remedy any effects of anti-union discrimination brought to their attention [see **Digest**, op. cit., para. 754].*

The Committee's recommendations

266. *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*

- (a) *As regards the dismissal of 34 workers of Textiles Rionegro, the Committee once again requests the Government to carry out the relevant investigations without delay, to inform it of any legal proceedings begun and to send its observations on the current situation in respect of these workers.*
- (b) *As regards the ruling handed down by the Honourable Council of State with regard to the action for protection of constitutional rights lodged by the trade union official María Librada García deciding to turn the file over to the Court of First Instance in order to ensure that due process was observed with regard to her dismissal, the Committee requests the Government to keep it informed of the outcome of the legal proceedings and hopes that these proceedings will be concluded in the near future.*
- (c) *As regards the allegations presented by the Official Employees' Association of the Municipality of Medellín (ADEM) on the violation of the agreement*

under which the Government had undertaken to reinstate the 83 workers enjoying trade union protection, and on the lack of consultations during the administrative restructuring process initiated by the Council of Medellín, the Committee emphasizes the importance of the agreement relating to the reinstatement of the 83 workers in question being fulfilled and recalls that it is important that governments consult with trade union organizations to discuss the consequences of restructuring programmes on the employment and working conditions of employees.

- (d) *As regards the allegations presented by the Trade Union Association of Employees of the National Penitentiary and Prison Institute (ASEINPEC) relating to the refusal to reinstate trade union officials and the constant threats received by these officials, anti-union persecution through measures against union leaders including sanctions, disciplinary proceedings and transfers, the dismissal of union leaders in violation of trade union immunity, the suspension of trade union leaders without pay for having conducted a peaceful demonstration, pressure on members to leave the union and the refusal to return the trade union offices to the complainant organization in spite of a legal ruling ordering this, the Committee requests the Government to ensure that the National Penitentiary and Prison Institute (INPEC) complies with the legal ruling ordering the reinstatement of the dismissed trade union officials, and that it take the necessary steps to ensure that the ASEINPEC offices are returned to the trade union organization without delay as ordered by the legal authority. The Committee requests the Government to keep it informed in this respect and to reply without delay to the other allegations.*
- (e) *As regards the murders of trade union officials Jesús Arley Escobar, Fabio Humberto Burbano Córdoba, Jorge Ignacio Bohada Palencia and Jaime García, the Committee requests the Government to take the necessary steps to ensure that the investigations allow those responsible for these murders to be punished in the near future and to keep it informed in this respect.*
- (f) *As regards the other allegations presented by ADEM, the Trade Union of Workers of Sintéticos S.A. (SINTRASINTETICOS) and the National Union of Textile Industry Workers (SINTRATEXTIL), the Committee requests the Government to send its observations without delay so that the Committee may formulate its conclusions in full possession of the facts.*

CASE NO. 2097

INTERIM REPORT

**Complaints against the Government of Colombia
presented by**

- **the Trade Union of Workers of Antioquia Department (SINTRADEPARTAMENTO)**
- **the National Trade Union of Workers of AVINCO S.A. (SINTRAVI)**
- **the Trade Union of Workers of “Cementos del Nare S.A.” (SINTRACENARE)**
- **the Single Confederation of Workers of Colombia (CUT) Antioquia executive board and**
- **the Union of “Official” Workers and Public Employees of the General Hospital of Medellín (SINTRA Hospital General De Medellín)**

Allegations: The complainant organizations allege dismissals of trade union officials protected by trade union immunity from the enterprise AVINCO S.A., the dismissal of trade unionists on anti-union grounds and pressure put on workers to leave the trade union and conclude an agreement bypassing the trade union; anti-union dismissals in the Department of Antioquia; dismissal of a worker from the enterprise Cementos del Nare S.A.; refusal by the General Hospital of Medellín to negotiate with the trade union.

- 267.** The Committee last examined this case at its November 2002 meeting [see 329th Report, paras. 448-479, approved by the Governing Body at its 285th Session (November 2002)].
- 268.** The Government sent its observations in communications dated 27 December 2002 and 2 January 2003.
- 269.** Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154).

A. Previous examination of the case

- 270.** At its November 2002 meeting, following its examination of allegations relating to acts of discrimination and persecution against trade union officials and trade unionists in various enterprises, the Committee made the following recommendations [see 329th Report, para. 479(a), (c), (d) and (f)]:
- (a) The Committee regrets that the inquiry initiated by the authorities into serious allegations of violations of trade union rights submitted by the complainant organization SINTRAVI has not yet been completed and urges the Government: (1) to take measures to ensure that the inquiry is completed as soon as possible, that it covers all the allegations and to send its results; (2) if it is found that the five dismissed workers were

covered by trade union immunity and that there was not just cause to dismiss them, to take measures to ensure the aggrieved workers are reinstated in their jobs, with no loss of pay and benefits; and (3) to keep it informed about the ruling handed down by the arbitration tribunal in relation to the collective bargaining process between SINTRAVI and AVINCO S.A.

- (c) With respect to the allegation concerning the dismissal of 13 workers from the Department of Antioquia affiliated to SINTRADEPARTAMENTO together with a further 35 workers (who were later reinstated) following a work stoppage, the Committee requests the Government to notify it of the specific grounds for the dismissal of these 13 workers and to send a copy of the corresponding legal decision.
- (d) Regarding the dismissal of Mr. Héctor Gómez from the enterprise Cementos del Nare S.A., so as to be able to give its views with all the information before it, the Committee requests the Government: (1) to send it the text of the legal decision setting aside the ruling of the dismissals committee ordering his reinstatement; (2) to inform it whether Mr. Gómez has initiated judicial administrative proceedings; and (3) to inform it whether he has been paid the corresponding compensation for dismissal plus an additional 12 per cent, which the Government indicated he would be entitled to under the provisions of the prevailing collective agreement.
- (f) The Committee requests the Government to communicate its observations on the allegations submitted by the Single Confederation of Workers of Colombia (CUT), Antioquia executive board, and the Union of "Official" Workers and Public Employees of the General Hospital of Medellín (SINTRA Hospital General de Medellín).

B. The Government's reply

271. In its communications of 27 December 2002 and 2 January 2003 the Government indicates that, with respect to subparagraph (a)(1), it replied on 3 June and 21 September 2001. Below is a summary of the reply, as it appears in the previous examination of the case [see 329th Report, paras. 457 and 458].

The Government states that the Ministry of Labour and Social Security, through the Territorial Directorate of Antioquia, initiated an administrative labour inquiry against the enterprise AVINCO S.A. in respect of the points contained in the complaint submitted to the ILO by SINTRAVI. The Government states that two conciliation hearings were scheduled. At the first, the enterprise AVINCO S.A. requested a copy of the complaint submitted to the ILO to enable it to respond. The legal representative of the enterprise AVINCO S.A. said that a trade union had been set up within the enterprise, and that in accordance with labour legislation, deductions for trade union dues had been made and also that trade union leave was granted. With respect to collective bargaining, the enterprise representative indicated that the meetings corresponding to the direct settlement stage had been held and that no agreement had been reached, resulting in the request to convene an arbitration tribunal in accordance with the provisions of Decree No. 801 of 1998 and Act No. 584 of 2000, which is the recognized channel for the settling of disputes directly between parties. The representative also stressed that with respect to the other rights to which the trade union considers it is entitled, and which have allegedly been violated, the decisions handed down by the administrative and judicial bodies have been adhered to.

272. With respect to subparagraph (a)(2), the Government states that an administrative labour investigation has begun at the Territorial Directorate of Cundinamarca.

273. Concerning No. 3, the Government indicates that the arbitration tribunal convened to resolve the dispute between the trade union organization SINTRAVI and the enterprise AVINCO S.A. handed down the respective arbitral award.

274. As regards subparagraph (c) of the recommendations, the Government refers to its reply of 7 February 2001 (in the Committee's conclusions a summary is given of the Government's previous observation).

275. With regard to subparagraph (d), the Government also refers to its reply dated 7 February 2001 (in the conclusions, a summary is given of the Government's observation).
276. Concerning subparagraph (f), the Government refers to a reply dated 4 October 2002 (however, this reply bears no relation to the allegations mentioned in subparagraph (f)).

C. The Committee's conclusions

277. *With regard to the serious allegations of violations of trade union rights at the enterprise AVINCO S.A. submitted by the organization SINTRAVI (the dismissal of five workers covered by trade union immunity after they had formed a trade union organization at the company AVINCO S.A.; pressure put on workers to conclude an agreement bypassing the trade union and the subsequent withdrawal of non-statutory benefits from unionized workers; pressure on workers to make them leave the union; and intransigence by the company in refusing to negotiate a list of demands [see 329th Report, para. 466]), the Committee regrets to observe that despite the time that has elapsed the Government does no more than refer to observations it made in conjunction with previous examinations of the case, which are very limited or bear no relation whatsoever to its previous recommendations. It has not sent any information on the investigation initiated or on its result as regards the dismissal of the five affiliated workers; it only repeats that an administrative investigation has begun and that with regard to the process of collective bargaining between the trade union organization SINTRAVI and the enterprise AVINCO S.A., the arbitration tribunal handed down an arbitral award, but it does not communicate its content. The Committee recalls that "no person should be dismissed or prejudiced in his or her employment by reason of trade union membership or legitimate trade union activities and it is important to forbid and penalize in practice all acts of anti-union discrimination in respect of employment [see **Digest of decisions and principles of the Freedom of Association Committee**, 4th edition, 1996, para. 696]. The Committee also stresses that "justice delayed is justice denied" [see **Digest**, op. cit., para. 56]. In these conditions, the Committee once again strongly urges the Government to take measures to ensure that the inquiry is completed as soon as possible, that it covers all the allegations, and that its results as well as the text of the arbitral award relating to the collective bargaining process are transmitted to the Committee. With regard to the five dismissed workers, the Committee requests the Government, if it is found that they were covered by trade union immunity and that there was no just cause to dismiss them, to take measures to ensure they are reinstated in their jobs, without loss of pay or benefits.*
278. *Concerning the dismissal of 13 workers from the Department of Antioquia affiliated to the complainant organization SINTRADEPARTAMENTO, the Committee notes that when referring in earlier observations to dismissals in the Department of Antioquia following a work stoppage declared illegal by the administrative authority, the Government stated that of the 48 workers who had been dismissed initially, 35 workers were reinstated by judicial order and the other 13 did not submit judicial appeals. The Committee regrets that the Government has not responded to its request for information on the specific grounds on which the enterprise based the dismissal of these 13 workers. The Committee once again requests the Government to conduct an investigation into this matter and, if it is found that the 13 workers in question were dismissed for the same reasons as the other 35 workers who were reinstated by judicial order, to take measures to promote their reinstatement and if this proves to be impossible due to the time that has elapsed, to compensate them fully.*
279. *Regarding the allegations relating to the dismissal of Mr. Héctor Gómez from the enterprise Cementos del Nare S.A., the Committee recalls that in its previous examination of the case, it had noted the Government's information that: (1) to dismiss Mr. Gómez, the enterprise had invoked the provisions of the in-house regulations and the individual contract which do not permit active or passive participation in acts of protest or meetings*

carried out at the workplace or in any of the enterprise's facilities either during or outside working hours; (2) in accordance with the collective agreement, the trade union had requested the convening of a committee responsible for deciding whether or not the dismissal had been for just cause; (3) the committee in question had decided to reinstate the worker on 24 August 1995; (4) clause 13(5) of the collective agreement provides that the decisions of the Committee, with the exception of the authority given to the enterprise to insist on the dismissal – in which case it must pay the worker the compensation due plus an additional 12 per cent – cannot be appealed against and are obligatory for the parties; the latter expressly decided to submit this type of difference to arbitration as provided in the clause in question and consequently renounced using legal channels; (5) the enterprise nevertheless applied to the High Court of Medellín in order to homologate the ruling of the dismissals committee and that court decided to set aside the ruling and declared that the dismissal of Mr. Héctor Gómez had been for just cause; (6) consequently, the complainant organization submitted a claim against the enterprise to the Ministry of Labour and Social Security, Antioquia Regional Directorate, for the violation of clause 13 of the collective agreement and, by way of resolutions dated 18 March and 5 June 1996, the administrative authority sanctioned the enterprise; and (7) the enterprise lodged an appeal against these resolutions and the regional director of Labour and Social Security of Antioquia decided to revoke them on the basis of the ruling handed down by the High Court of Medellín, with the possibility remaining that Mr. Gómez could initiate judicial administrative proceedings.

- 280.** *The Committee regrets that the Government only refers to earlier replies. This being the situation, it once again requests the Government to send the texts of the final judicial and administrative decisions without delay and to indicate whether Mr. Gómez has been paid the corresponding compensation for dismissal plus an additional 12 per cent, which the Government indicated he would be entitled to under the provisions of the prevailing collective agreement. The Committee requests the Government to send the text of the collective agreement.*
- 281.** *As regards the allegations submitted by the Single Confederation of Workers of Colombia (CUT), Antioquia executive board, and the Union of “Official” Workers and Public Employees of the General Hospital of Medellín concerning the hospital’s refusal to initiate collective bargaining, the Committee observes that the Government refers to an observation dated 4 October 2002 which bears no relation whatsoever to the allegations. In view of the time that has elapsed, the Committee requests the Government to promote collective bargaining at the General Hospital of Medellín without delay and to keep it informed in this respect.*

The Committee’s recommendations

- 282.** *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*
- (a) With respect to the serious allegations of violations of trade union rights at the enterprise AVINCO S.A., submitted by the organization SINTRAVI, the Committee once again strongly urges the Government to take measures to ensure that the inquiry is completed as soon as possible, that it covers all the allegations and that its results as well as the text of the arbitral award relating to the collective bargaining process are transmitted to the Committee. Concerning the five dismissed workers, the Committee requests the Government, if it is found that they were covered by trade union immunity and that there was no just cause to dismiss them, to take measures to ensure they are reinstated in their jobs, without loss of pay or benefits.*

- (b) *As regards the dismissal of 13 workers from the Department of Antioquia affiliated to the complainant organization SINTRADEPARTAMENTO, the Committee once again requests the Government to conduct an investigation in this respect and, if it is found that the 13 workers were dismissed for the same reasons as the other 35 workers who were reinstated by judicial order, to take measures to promote their reinstatement and if this proves to be impossible due to the time that has elapsed, to compensate them fully.*
- (c) *Concerning the allegations relating to the dismissal of Mr. Héctor Gómez from the enterprise Cementos del Nare S.A., the Committee once again requests the Government to send the texts of the final judicial and administrative decisions without delay and to indicate whether Mr. Gómez has been paid the corresponding compensation for dismissal plus an additional 12 per cent, which the Government indicated he would be entitled to under the provisions of the prevailing collective agreement, and to send the text of the collective agreement.*
- (d) *With regard to the allegations submitted by the Single Confederation of Workers of Colombia (CUT), Antioquia executive board, and the Union of “Official” Workers and Public employees of the General Hospital of Medellín, the Committee requests the Government to promote collective bargaining at the General Hospital of Medellín without delay and to keep it informed in this respect.*

CASE NO. 2213

DEFINITIVE REPORT

**Complaint against the Government of Colombia
presented by**

- **the Single Confederation of Workers of Colombia (CUT) and**
- **the National Trade Union of Metalworkers, Metallurgists, Steelworkers, Miners and Electrical and Electronic Workers (SINTRAMETAL)**

Allegation: The complainants allege the dismissal of 20 workers affiliated to a trade union in the enterprise Sociedad Siderúrgica de Medellín S.A.

- 283.** The present complaint is contained in the communication of the Single Confederation of Workers of Colombia (CUT) and the National Trade Union of Metalworkers, Metallurgists, Steelworkers, Miners and Electrical and Electronic Workers (SINTRAMETAL) dated 15 July 2002.
- 284.** The Government sent its observations in a communication dated 13 January 2003.
- 285.** Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. The complainants' allegations

286. In their communication of 15 July 2002, the Single Confederation of Workers of Colombia (CUT) and the National Trade Union of Metalworkers, Metallurgists, Steelworkers, Miners and Electrical and Electronic Workers (SINTRAMETAL) allege the dismissal of 20 workers at the Sociedad Siderúrgica de Medellín S.A. (SIMESA) enterprise in Medellín. The workers in question were members of SINTRAMETAL. The complainants also state that the enterprise applied to the Ministry of Labour for authorization to carry out the dismissals and claimed, in justification of the dismissals, that it was experiencing an economic crisis especially in the foundry section in which the dismissed workers were employed (the complainants indicate that the company had previously terminated the contracts of 250 workers as part of a voluntary retirement scheme, also as result of the economic crisis). The complainants allege that the Ministry issued resolution 039 of 5 May 1993 authorizing the dismissals, which constitutes an unequivocal act of interference in trade union activities. The complainants also indicate that each of the dismissed workers has on average 20 years of service to the company. They add that an appeal was lodged against the decision, which, however, was upheld by resolution No. 002794 of 23 June 1993.

B. The Government's reply

287. In its communication of 3 January 2003, the Government indicates that the administrative decisions to authorize the collective dismissal in the SIMESA enterprise in May 2003 were challenged by the workers and their trade union before the administrative disputes court and the Supreme Court of Justice, both of which upheld the collective dismissal on the grounds that it was in accordance with the law (the Government attaches copies of both rulings). The Government adds that in any case, given the separation of powers that is guaranteed under the country's Political Constitution, the Government cannot interfere with court decisions.

C. The Committee's conclusions

288. *The Committee notes that the allegations refer to the dismissal of 20 workers who were members of the trade union at the SIMESA enterprise in May 1993 as part of a restructuring process. According to the complainants, authorization by the Ministry of Labour for such dismissals constitutes interference in the activities of the trade union.*

289. *The Committee notes that, according to the Government, the dismissals in question were authorized by the Ministry of Labour in a resolution which was challenged by the complainants before the administrative disputes court and the Supreme Court, and that both those courts upheld the collective dismissals. The Committee notes also that it is clear from the court rulings in question that the complainant did not allege a violation of freedom of association as grounds for its appeal, which was supported by different arguments. The Government notes that, according to the court rulings, the dismissals were the result of the closure of a foundry section which affected about 300 workers, of whom 250 accepted voluntary retirement with compensation. Under these circumstances the Committee concludes that the dismissals were general measures adopted for economic reasons and that there is insufficient evidence to demonstrate that they were anti-union in nature.*

The Committee's recommendation

290. *In the light of the foregoing conclusions, the Committee invites the Governing Body to decide that the case does not require further examination.*

CASE NO. 2226

INTERIM REPORT

Complaints against the Government of Colombia presented by

- the Union of State Workers of Colombia (UTRADEC)
- the Single Confederation of Workers of Colombia (CUT) and
- the Social Security Workers' Union (SINTRASEGURIDADSOCIAL)

Allegations: The complainants allege the default on a collective agreement concluded between the Ministry of Labour and the Social Security Institute with SINTRASEGURIDADSOCIAL, dismissals in conjunction with successive restructuring at the San Vicente de Paul Hospital of Caldas-Antioquia, the dismissal of the entire executive committee of the Trade Union Association of Workers and Public Officials in the areas of Health, Integral Social Security and Complementary Services of Colombia (ANTHOC) without judicial authorization, anti-union harassment against a trade union leader of SINDICIENAGA in the Municipality of Ciénaga, Department of Magdalena, the withholding of trade union fees and the dismissal of 38 members, alleged by UTRADEC.

291. The complaint is contained in a communication from the Single Confederation of Workers of Colombia (CUT), and from the Trade Union Association of Workers and Public Officials in the areas of Health, Integral Social Security and Complementary Services of Colombia (ANTHOC) dated 18 October 2002 and in a communication from the Social Security Workers' Union (SINTRASEGURIDADSOCIAL) dated 22 October 2002. The Union of State Workers of Colombia (UTRADEC) submitted further allegations in a communication dated 3 March 2003. The CUT sent new allegations dated 14 February 2003.

292. The Government sent its observations in a communication dated 13 January 2003.

293. Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154).

A. The complainants' allegations

294. In its communication dated 18 October 2002, the Single Confederation of Workers of Colombia (CUT) and the Trade Union Association of Workers and Public Officials in the areas of Health, Integral Social Security and Complementary Services of Colombia (ANTHOC) allege that the San Vicente de Paul Hospital of Caldas-Antioquia has carried out five restructuring processes since 1998 and that during the fifth in 2002, 150 workers were dismissed who, according to the complainants, will be replaced by cooperatives. The complainant adds that on 8 October 2002, the entire executive committee of the ANTHOC was dismissed without authorization by a judge.
295. In its communication dated 22 October 2002, the Social Security Workers' Union (SINTRASEGURIDADSOCIAL) alleges default on the collective agreement concluded between the Ministry of Labour and Social Security and the Social Security Institute with the trade union on 31 October 2002 in conjunction with a framework agreement. The complainant indicates that the current Government is not complying with it and lists the provisions that are not respected, including: (a) the measures to maintain the unity of the Social Security Institute; (b) the admission of workers' delegates to the management board of the Social Security Institute; and (c) the preparation of a personnel policy. The complainant also alleges that approximately 5,000 plant workers have been suspended and that the Institute intends to dismiss the contracted workers.
296. In its communication dated 3 March 2002, the Union of State Workers of Colombia (UTRADEC) alleges: (a) the anti-union harassment of Ms. María Teresa Romero Constante, president of SINDICIENAGA, by the authorities of the Institute of Traffic and Municipal Transport of Ciénaga, Department of Magdalena, who refused to negotiate with her in particular, and issued threats to make her leave the trade union; (b) the dismissal of 38 trade union members; (c) the default on the collective agreement in respect of the payment of travelling expenses; and (d) the withholding of trade union fees.
297. In its communication of 14 February 2003, the CUT alleges the dismissal without suspension of trade union immunity and other acts of anti-union harassment against Ms. Gloria Castaño Valencia for having protested against the dismissal of her colleagues.

B. The Government's reply

298. In its communication dated 13 January 2003, the Government indicates: (a) regarding the allegations concerning the dismissal of 150 workers and of the entire executive committee of the Trade Union Association of Workers and Public Officials in the areas of Health, Integral Social Security and Complementary Services of Colombia (ANTHOC) at the San Vicente de Paul Hospital of Caldas-Antioquia, the territorial directorate of Antioquia has initiated an administrative labour investigation against the hospital to verify the points contained in the complaint; (b) concerning the allegations relating to the default on the collective agreement and the suspension of 5,000 workers by the Social Security Institute alleged by the Social Security Workers' Union (SINTRASEGURIDADSOCIAL), the territorial directorate of Bogotá and Cundinamarca has initiated an administrative labour investigation against the Social Security Institute, and the 15th labour inspection office was appointed for this purpose, and invited the parties to attend a conciliation hearing on 26 December 2002, which did not take place owing to the failure of both parties to appear.

C. The Committee's conclusions

299. *The Committee observes that the present allegations refer to: (a) the massive dismissal of workers from the San Vicente de Paul Hospital of Caldas-Antioquia in conjunction with a*

restructuring process and including the entire executive committee of Trade Union Association of Workers and Public Officials in the areas of Health, Integral Social Security and Complementary Services of Colombia (ANTHOC), without the judicial authorization required by law, the intention being to contract new workers under the category of cooperatives; (b) the default on the collective agreement concluded between the Social Security Workers' Union (SINTRASEGURIDADSOCIAL) and the Social Security Institute; (c) the suspension of 5,000 plant workers and the intention to dismiss the contracted workers; (d) the anti-union harassment of Ms. María Teresa Romero Constante, president of SINDICIENAGA, by the authorities of the Institute of Traffic and Municipal Transport of Ciénaga, Department of Magdalena, who refused to negotiate with her in particular, and issued threats to make her leave the trade union; (e) the dismissal of 38 trade union members; (f) the withholding of trade union fees; and (g) the default on the collective agreement as regards the payment of travelling expenses.

300. The Committee notes the Government's observations whereby administrative labour investigations have been initiated in respect of the allegations submitted by the Single Confederation of Workers of Colombia (CUT) and the Trade Union Association of Workers and Public Officials in the areas of Health, Integral Social Security and Complementary Services of Colombia (ANTHOC) concerning restructuring (with the dismissal of 150 workers and the executive committee of the ANTHOC) at the San Vicente de Paul Hospital, and by SINTRASEGURIDADSOCIAL concerning the default on the collective agreement and the suspension of 5,000 workers by the Social Security Institute. The Committee notes that, according to the Government, referring to the allegations of the suspension of 5,000 workers and the default on the collective agreement by the Social Security Institute, the 15th labour inspection office, appointed to carry out the investigation, invited both parties to a conciliation hearing on 26 December 2002; nevertheless, the Government indicates that neither the complainant nor the representatives of the Institute attended it.
301. In general terms, with respect to the massive dismissals in conjunction with the restructuring processes, the Committee recalls that it can only examine allegations concerning economic rationalization programmes and restructuring processes, whether or not they imply redundancies or the transfer of enterprises or services from the public to the private sector, only in so far as they might have given rise to acts of discrimination or interference against trade unions. In any case, the Committee can only regret that in the rationalization and staff reduction process, there was no attempt to consult or try to reach an agreement with the trade union organizations [see **Digest of decisions and principles of the Freedom of Association Committee**, 4th edition, 1996, para. 935]. The Committee will examine the alleged dismissals exclusively from this angle.
302. The Committee observes that in the framework of all the massive dismissals at the San Vicente de Paul Hospital (150 workers), according to the complainants the executive committee of the ANTHOC was dismissed without the judicial authorization required under Colombian legislation. The Committee recalls, as it has done so on previous occasions, that recognition of a priority should be given to workers' representatives with regard to their retention in employment in case of reduction of the workforce to ensure their effective protection [see **Digest**, op. cit., paras. 960 and 961].
303. In these conditions, the Committee requests the Government to take steps to ensure that the investigation initiated by the territorial directorate of Antioquia is completed without delay and, if it is found that there was no judicial authorization to dismiss the members of the executive committee of the ANTHOC (which constitutes an obligatory legal requirement for dismissal), the dismissed officials are reinstated in their jobs and are paid their back wages. The Committee requests the Government to keep it informed in this respect.

- 304.** *Concerning the alleged default on the collective agreement concluded between the Ministry of Labour and Social Security and the Social Security Institute with SINTRASEGURIDADSOCIAL, and to the suspension of 5,000 workers with possible dismissal, the Committee notes that the administrative authorities have initiated an investigation (referred to above) and that as part of it a conciliation process was begun. The Committee observes, however, that according to the Government, the parties (as indicated above) did not attend the conciliation hearing convened by the labour inspectorate on 26 December 2002. The Committee stresses the importance of the parties attending hearings convened by the administrative authority in order to reach an agreement satisfactory to both parties as soon as possible. The Committee requests the Government to take steps to ensure that the investigation covers all aspects of the allegations and is promptly completed. The Committee requests the Government to keep it informed in this respect.*
- 305.** *With regard to the allegations submitted by the Union of State Workers of Colombia (UTRADEC) concerning: (a) the anti-union persecution of Ms. María Teresa Romero Constante, president of SINDICIENAGA, by the authorities of the Institute of Traffic and Municipal Transport of Ciénaga, Department of Magdalena, who refused to negotiate with her in particular, and issued threats to make her leave the trade unions; (b) the dismissal of 38 trade union members; (c) the default on the collective agreement as regards the payment of travelling expenses; and (d) the withholding of trade union fees, the Committee regrets that the Government has not replied to these allegations and urges it to send its observations without delay.*
- 306.** *With regard to the recent communications of the CUT relative to the dismissal without suspension of trade union immunity and other acts of anti-union harassment against Ms. Gloria Castaño Valencia, the Committee requests the Government to transmit its observations in this respect.*

The Committee's recommendations

- 307.** *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*
- (a) *The Committee requests the Government to take steps to ensure that the investigation initiated by the territorial directorate of Antioquia is completed without delay and, if it is found that there was no judicial authorization to dismiss the members of the executive committee of the Trade Union Association of Workers and Public Officials in the areas of Health, Integral Social Security and Complementary Services of Colombia (ANTHOC), the dismissed officials are reinstated in their jobs with payment of back wages. The Committee requests the Government to keep it informed in this respect.*
- (b) *Concerning the alleged default on the collective agreement concluded between the Ministry of Labour and Social Security and the Institute of Social Security with the Social Security Workers' Union (SINTRASEGURIDADSOCIAL), and the suspension of 5,000 workers with possible dismissal, the Committee notes that the administrative authorities have initiated an investigation and that, as part of it, a conciliation process was begun. The Committee stresses the importance of the parties attending hearings convened by the administrative authority in order to reach an agreement satisfactory to both sides as soon as possible. The Committee requests the Government to take steps to ensure that the investigation covers*

all aspects of the allegations and that it is promptly completed. The Committee requests the Government to keep it informed in this respect.

- (c) *With regard to the allegations submitted by the Union of State Workers of Colombia (UTRADEC) concerning the anti-union persecution of Ms. María Teresa Romero Constante, president of SINDICIENAGA, by the authorities of the Institute of Traffic and Municipal Transport of Ciénaga, Department of Magdalena, who refused to negotiate with her in particular, and issued threats to make her leave the trade union, the dismissal of 38 trade union members, the default on the collective agreement as regards the payment of travelling expenses, and the withholding of trade union fees, the Committee urges the Government to send its observations without delay.*
- (d) *With regard to the allegations presented by the Single Confederation of Workers of Colombia (CUT) relative to the dismissal without suspension of trade union immunity and other anti-union acts against Ms. Gloria Castaño Valencia, the Committee requests the Government to transmit its observations in this respect.*

CASE No. 2237

REPORT IN WHICH THE COMMITTEE REQUESTS
TO BE KEPT INFORMED OF DEVELOPMENTS

**Complaint against the Government of Colombia
presented by
the Textile Industry Workers of Colombia (SINTRATEXTIL) –
Barranquilla branch**

Allegations: Discrimination in the payment of wages to workers belonging to SINTRATEXTIL in the Hilzas Vanylon Enterprise. Workers have had to resign from the trade union, relinquish their right to retroactive severance pay, stability and other prerogatives in order to obtain common wage levels. A fine imposed on the enterprise for discrimination against a trade union official has also not been implemented.

- 308.** The Textile Industry Workers of Colombia (SINTRATEXTIL), Barranquilla branch, sent its complaint in a communication dated 20 November 2002.
- 309.** The Government sent its observations in a communication dated 24 February 2003.
- 310.** Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. The complainant's allegations

- 311.** In its communication dated 20 November 2002, the Textile Industry Workers of Colombia (SINTRATEXTIL), Barranquilla branch, alleges that the Hilazas Vanylon Enterprise SA has, for more than ten years, violated and ignored the rights of workers belonging to the trade union. The complainant organization states that the enterprise pays workers belonging to the trade union a wage that is 50 per cent less than that which is paid to other workers. Because of this, and in order to obtain common wage levels, trade union members have had to resign from the trade union and relinquish their right to other benefits such as retroactive severance pay, stability and other usual prerogatives.
- 312.** The complainant organization indicates that these systematic violations were lodged as a complaint with the Ministry of Labour and that on various occasions they were verified by the authorities: Acts Nos. 1022, 1039 and 0781 of 24 October and 4 December 2000 and February 2001 (the complainant organization did not send these).
- 313.** The complainant organization also alleges that, on 7 March 2001, it lodged an administrative complaint with the Ministry of Labour for a decline in the labour situation of a member of the executive subcommittee, Lucila Mercado Ladeuth (violation of trade union immunity), a fact which was verified in Acts Nos. 0763 of 10 April 2001 and 1069 of 10 July 2001. The Ministry, as a result, issued resolution No. 000907 of August 2001 establishing that the Hilazas Vanylon Enterprise had violated the rules of trade union immunity and consequently ordering that the enterprise be fined. However, the complainant organization alleges that this fine was not implemented by the SENA, which is the administrative body with legal competency to do so.

B. The Government's reply

- 314.** In its communication of 24 February 2003, the Government indicates that the Ministry of Labour and Social Security has competency to oversee and inspect compliance with labour standards, that is to say that when these are not complied with by an employer the Ministry issues sanctions, when and where it is not necessary to issue value judgments, in which situation competency belongs to the ordinary labour courts. It adds that in accordance with resolution No. 000907, the Ministry of Labour and Social Security, through the Territorial Directorate for Labour and Social Security of Atlántico, fined the Hilazas Vanylon Enterprise SA the amount of 50 legal minimum monthly wages in force for preventing access to the Ministry of Labour employee charged with ascertaining the alleged violation of trade union immunity of the trade union official Lucila Mercado Ladeuth.
- 315.** The Government indicates that this resolution was the subject of various motions to appeal and to reverse the decision, which were resolved in resolutions Nos. 001031 of 12 September 2001 and 007931 of 25 June 2002, which upheld in its entirety the original resolution.
- 316.** With regard to the actions for the protection of constitutional rights initiated by the complainant organization, the Government states that these were not carried forward for procedural reasons (that is to say an in-depth investigation was not carried out).

C. The Committee's conclusions

- 317.** *The Committee notes that the allegations in this complaint refer to acts of anti-union discrimination against workers belonging to SINTRATEXTIL in the Hilazas Vanylon Enterprise SA, which can be seen as follows: (1) the decline in the labour situation of a trade union official (Lucila Mercado Ladeuth), verified by the administrative authority;*

and (2) the payment of salaries that are 50 per cent less than those earned by other workers not belonging to the trade union. The Committee furthermore notes that according to the complainant organization, as a consequence of these inferior labour conditions, a number of trade union members have had to resign their membership and relinquish their right to other benefits such as retroactive severance pay, stability and other usual prerogatives in order to receive the same salary as other workers.

- 318.** *The Committee expresses its concern about these allegations but notes that the complainant organization has not sent the administrative acts according to which the payment of wages that are 50 per cent less to trade union members is verified (Acts Nos. 1022, 1039 and 0781 of 24 October and 4 December 2000 and February 2001). The Committee requests the complainant organization to send these acts. Furthermore, the Committee requests the Government to ensure without delay that the workers in the enterprise are not discriminated against in respect of wages because of their trade union membership, and to investigate whether, as indicated in the allegations, a number of trade union members have had to resign their membership as a result of the aforementioned wage discrimination. The Committee requests the Government to keep it informed in this respect.*
- 319.** *The Committee recalls, in a general manner, that “no person should be dismissed or prejudiced in his/her employment by reason of trade union membership or legitimate trade union activities, and it is important to forbid and penalize in practice all acts of anti-union discrimination in respect of employment” [see **Digest of decisions and principles of the Freedom of Association Committee**, 1996, 4th edition, para. 696].*
- 320.** *With regard to the alleged decline in the labour situation of the trade union official, Lucila Mercado Ladeuth (violation of trade union immunity), the Committee notes that the enterprise refused to allow an investigation to verify this allegation and as such was fined the amount of 50 legal minimum monthly wages. The Committee requests the Government to take steps to see that an investigation is carried out without delay into this matter and if the alleged anti-union discrimination is proven, that it ensure that this situation is rectified immediately. The Committee also notes that the fine in question was not collected because the administrative body imposing it lacked the authority for this. The Committee requests the Government to take steps to apply the provisions of the labour legislation and to ensure that the fine is enforced without delay and to ensure that the procedures for imposing fines are truly effective in all the cases.*

The Committee’s recommendations

- 321.** *In the light of its foregoing conclusions, the Committee invites the Governing Body to approve the following recommendations:*
- (a) *With regard to the allegations relating to the payment of salaries to workers belonging to the trade union that are 50 per cent lower than those paid to workers not belonging to the trade union, the Committee requests the complainant organization to send the acts referred to in the conclusions. Furthermore, the Committee requests the Government to ensure without delay that the workers in the enterprise are not discriminated against in respect of wages because of their trade union membership, and to investigate whether, as indicated in the allegations, a number of trade union members have had to resign their membership as a result of the aforementioned wage discrimination. The Committee requests the Government to keep it informed in this respect.*

- (b) *With regard to the alleged decline in the labour situation of the trade union official Lucila Mercado Ladeuth, in violation of trade union immunity, the Committee requests the Government to take steps to see that an investigation is carried out without delay into this matter and if the alleged anti-union discrimination is proven, that it ensure that this situation is rectified immediately.*
- (c) *With regard to the fine imposed (and not collected) on the enterprise for not allowing an inspection to be carried out, the Committee requests the Government to take steps to ensure that the labour legislation provisions are applied with regard to the allegation relating to the trade union official mentioned, that the fine is enforced without delay and to ensure that the procedures for imposing fines are truly effective in all the cases.*