

Freedom of Association

Digest of decisions and principles
of the Freedom of Association Committee
of the Governing Body of the ILO

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Special procedures for the examination in the International Labour Organization of complaints alleging violations of freedom of association

The outline given below of the current procedure for the examination of complaints alleging infringements of trade union rights is based on the provisions adopted by common consent by the Governing Body of the International Labour Office and the Economic and Social Council of the United Nations in January and February 1950, and also on the decisions taken by the Governing Body at its 117th Session (November 1951), 123rd Session (November 1953), 132nd Session (June 1956), 140th Session (November 1958), 144th Session (March 1960), 175th Session (May 1969), 184th Session (November 1971), 202nd Session (March 1977), 209th Session (May-June 1979) and 283rd Session (March 2002) with respect to the internal procedure for the preliminary examination of complaints, and lastly on certain decisions adopted by the Committee on Freedom of Association itself.¹

Background

1. In January 1950 the Governing Body, following negotiations with the Economic and Social Council of the United Nations, set up a Fact-Finding and Conciliation Commission on Freedom of Association, composed of independent persons, and defined the terms of reference of the Commission and the general lines of its procedure. It also decided to communicate to the Economic and Social Council a certain number of suggestions with a view to formulating a procedure for making the services of the Commission available to the United Nations.

¹ Most of the procedural rules referred to in this Annex are contained under the heading "procedural questions" in the following documents: First Committee Report, paras. 6 to 32, in Sixth Report of the International Labour Organisation to the United Nations (Geneva, ILO, 1952), Appendix V; the 6th Report in Seventh Report of the International Labour Organisation to the United Nations (Geneva, ILO, 1953), Appenix V, paras. 14 to 21; the 9th Report in Eighth Report of the International Labour Organisation to the United Nations (Geneva, ILO, 1954), Appendix II, paras. 2 to 40; the 29th and 43rd Reports in the *Official Bulletin*, Vol. XLIII, 1960, No. 3; the 111th Report, *ibid.*, Vol. LII, 1969 No. 4, paras. 7 to 20; the 127th Report, *ibid.*, Vol. LV, 1972, Supplement, paras. 9 to 28; the 164th Report, *ibid.*, Vol. LX, 1977, No. 2, paras. 19 to 28; the 193rd Report, *ibid.*, Vol. LXII, 1979, No. 1; and the 327th Report, *ibid.*, Vol. LXXXV, 2002, paras. 17 to 26.

2. The Economic and Social Council, at its Tenth Session, on 17 February 1950, noted the decision of the Governing Body and adopted a resolution in which it formally approved this decision, considering that it corresponded to the intent of the Council's resolution of 2 August 1949 and that it was likely to prove a most effective way of safeguarding trade union rights. It decided to accept, on behalf of the United Nations, the services of the ILO and the Fact-Finding and Conciliation Commission and laid down a procedure, which was supplemented in 1953.

Complaints received by the United Nations

3. All allegations regarding infringements of trade union rights received by the United Nations from governments or trade union or employers' organizations against ILO member States will be forwarded by the Economic and Social Council to the Governing Body of the International Labour Office, which will consider the question of their referral to the Fact-Finding and Conciliation Commission.

4. Similar allegations received by the United Nations regarding any Member of the United Nations which is not a Member of the ILO will be transmitted to the Commission through the Governing Body of the ILO when the Secretary-General of the United Nations, acting on behalf of the Economic and Social Council, has received the consent of the government concerned, and if the Economic and Social Council considers these allegations suitable for transmission. If the government's consent is not forthcoming, the Economic and Social Council will give consideration to the position created by such refusal, with a view to taking any appropriate alternative action calculated to safeguard the rights relating to freedom of association involved in the case. If the Governing Body has before it allegations regarding infringements of trade union rights that are brought against a Member of the United Nations which is not a Member of the ILO, it will refer such allegations in the first instance to the Economic and Social Council.

Bodies competent to examine complaints

5. In accordance with a decision originally taken by the Governing Body, complaints against member States of the ILO were submitted in the first instance to the Officers of the Governing Body for preliminary examination. Following discussions at its 116th and 117th Sessions, the Governing Body decided to set up a Committee on Freedom of Association to carry out this preliminary examination.

6. At the present time, therefore, there are three bodies which are competent to hear complaints alleging infringements of trade union rights that are lodged with the ILO, viz. the Committee on Freedom of Association set up by the Governing Body, the Governing Body itself, and the Fact-Finding and Conciliation Commission on Freedom of Association.

Composition and functioning of the Committee on Freedom of Association

7. This body is a Governing Body organ reflecting the ILO's own tripartite character. Since its creation in 1951, it has been composed of nine regular members representing in equal proportion the Government, Employer and Worker groups of the Governing Body; each member participates in a personal capacity. Nine substitute members, also appointed by the Governing Body, were originally called upon to participate in the meetings only if, for one reason or another, regular members were not present, so as to maintain the initial composition.

8. The present practice adopted by the Committee in February 1958 and specified in March 2002 gives substitute members the right to participate in the work of the Committee, whether or not all the regular members are present. They have therefore acquired the status of deputy members and must respect the same rules as regular members.

9. At its most recent examination of the procedure in March 2002, the Committee expressed the hope that, in view of the rule that all the members are appointed in their individual capacity, the nominations of Government members would be made in a personal capacity so as to ensure a relative permanence of government representation.

10. No representative or national of the State against which a complaint has been made, or person occupying an official position in the national organization of employers or workers which has made the complaint, may participate in the Committee's deliberations or even be present during the hearing of the complaint in question. Similarly, the documents concerning the case are not supplied to them.

11. The Committee always endeavours to reach unanimous decisions.

Mandate and responsibility of the Committee

12. By virtue of its Constitution, the ILO was established in particular to improve working conditions and to promote freedom of association in the various countries. Consequently, the matters dealt with by the Organization in this connection no longer fall within the exclusive sphere of States and the action taken by the Organization for the purpose cannot be considered to be interference in internal affairs, since it falls within the terms of reference that the ILO has received from its Members with a view to attaining the aims assigned to it.²

13. The function of the International Labour Organization in regard to freedom of association and the protection of the individual is to contribute to the effectiveness of the general principles of freedom of association, as one of the primary safeguards of peace and social justice.³ Its function is to secure and promote the right of association of workers and employers. It does not level charges at, or condemn, governments. In fulfilling its task the Committee takes the utmost care, through the procedures it has developed over many years, to avoid dealing with matters which do not fall within its specific competence.

² See *Freedom of Association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, fifth (revised) edition, 2006, para. 2.

³ See 2006 *Digest*, para. 1.

14. The mandate of the Committee consists in determining whether any given legislation or practice complies with the principles of freedom of association and collective bargaining laid down in the relevant Conventions.⁴

15. It is within the mandate of the Committee to examine whether, and to what extent, satisfactory evidence is presented to support allegations; this appreciation goes to the merits of the case and cannot support a finding of irreceivability.⁵

16. With a view to avoiding the possibility of misunderstanding or misinterpretation, the Committee considers it necessary to make it clear that its task is limited to examining the allegations submitted to it. Its function is not to formulate general conclusions concerning the trade union situation in particular countries on the basis of vague general statements, but simply to evaluate specific allegations.

17. The usual practice of the Committee has been not to make any distinction between allegations levelled against governments and those levelled against persons accused of infringing freedom of association, but to consider whether or not, in each particular case, a government has ensured within its territory the free exercise of trade union rights.

18. The Committee (after a preliminary examination, and taking account of any observations made by the governments concerned, if received within a reasonable period of time) reports to the Governing Body that a case does not call for further examination if it finds, for example, that the alleged facts, if proved, would not constitute an infringement of the exercise of trade union rights, or that the allegations made are so purely political in character that it is undesirable to pursue the matter further, or that the allegations made are too vague to permit a consideration of the case on its merits, or that the complainant has not offered sufficient evidence to justify reference of the matter to the Fact-Finding and Conciliation Commission.

19. The Committee may recommend that the Governing Body draw the attention of the governments concerned to the anomalies which it has observed and invite them to take appropriate measures to remedy the situation.

The Committee's competence to examine complaints

20. The Committee has considered that it is not within its competence to reach a decision on violations of ILO Conventions on working conditions since such allegations do not concern freedom of association.

21. The Committee has recalled that questions concerning social security legislation fall outside its competence.

22. The questions raised related to landownership and tenure governed by specific national legislation have nothing to do with the problems of the exercise of trade union rights.

23. It is not within the Committee's terms of reference to give an opinion on the type or characteristics – including the degree of legislative regulation – of the industrial relations system in any particular country.⁶

⁴ See 2006 *Digest*, para. 6.

⁵ See 2006 *Digest*, para. 9.

⁶ See 287th Report, Case No. 1627, para. 32.

24. The Committee always takes account of national circumstances, such as the history of labour relations and the social and economic context, but the freedom of association principles apply uniformly and consistently among countries.⁷

25. Where the government concerned considers that the questions raised are purely political in character, the Committee has decided that, even though allegations may be political in origin or present certain political aspects, they should be examined in substance if they raise questions directly concerning the exercise of trade union rights.

26. The question of whether issues raised in a complaint concern penal law or the exercise of trade union rights cannot be decided unilaterally by the government against which a complaint is made. It is for the Committee to rule on the matter after examining all the available information.⁸

27. When it has had to deal with precise and detailed allegations regarding draft legislation, the Committee has taken the view that the fact that such allegations relate to a text that does not have the force of law should not in itself prevent it from expressing its opinion on the merits of the allegations made. It has considered it desirable that, in such cases, the government and the complainant should be made aware of the Committee's point of view with regard to the proposed bill before it is enacted, since it is open to the government, on whose initiative such a matter depends, to make any amendments thereto.

28. Where national legislation provides for appeal procedures before the courts or independent tribunals, and these procedures have not been used for the matters on which the complaint is based, the Committee takes this into account when examining the complaint.

29. When a case is being examined by an independent national jurisdiction whose procedures offer appropriate guarantees, and the Committee considers that the decision to be taken could provide additional information, it will suspend its examination of the case for a reasonable time to await this decision, provided that the delay thus encountered does not risk prejudicing the party whose rights have allegedly been infringed.

30. Although the use of internal legal procedures, whatever the outcome, is undoubtedly a factor to be taken into consideration, the Committee has always considered that, in view of its responsibilities, its competence to examine allegations is not subject to the exhaustion of national procedures.

Receivability of complaints

31. Complaints lodged with the ILO, either directly or through the United Nations, must come either from organizations of workers or employers or from governments. Allegations are receivable only if they are submitted by a national organization directly interested in the matter, by international organizations of employers or workers having consultative status with the ILO, or other international organizations of employers or workers where the allegations relate to matters directly affecting their affiliated organizations. Such complaints may be presented whether or not the country concerned has ratified the freedom of association Conventions.

⁷ See 2006 *Digest*, para. 10.

⁸ See 268th Report, Case No. 1500, para. 693.

32. The Committee has full freedom to decide whether an organization may be deemed to be an employers' or workers' organization within the meaning of the ILO Constitution, and it does not consider itself bound by any national definition of the term.

33. The Committee has not regarded any complaint as being irreceivable simply because the government in question had dissolved, or proposed to dissolve, the organization on behalf of which the complaint was made, or because the person or persons making the complaint had taken refuge abroad.

34. The fact that a trade union has not deposited its by-laws, as may be required by national laws, is not sufficient to make its complaint irreceivable since the principles of freedom of association provide precisely that the workers shall be able, without previous authorization, to establish organizations of their own choosing.

35. The fact that an organization has not been officially recognized does not justify the rejection of allegations when it is clear from the complaints that this organization has at least a *de facto* existence.

36. In cases in which the Committee is called upon to examine complaints presented by an organization concerning which no precise information is available, the Director-General is authorized to request the organization to furnish information on the size of its membership, its statutes, its national or international affiliations and, in general, any other information calculated, in any examination of the receivability of the complaint, to lead to a better appreciation of the precise nature of the complainant organization.

37. The Committee will only take cognizance of complaints presented by persons who, through fear of reprisals, request that their names or the origin of the complaints should not be disclosed, if the Director-General, after examining the complaint in question, informs the Committee that it contains allegations of some degree of gravity which have not previously been examined by the Committee. The Committee can then decide what action, if any, should be taken with regard to such complaints.

Repetitive nature of complaints

38. In any case in which a complaint concerns exactly the same infringements as those on which the Committee has already given a decision, the Director-General may, in the first instance, refer the complaint to the Committee, which will decide whether it is appropriate to take action on it.

39. The Committee has taken the view that it could only reopen a case which it had already examined in substance and in which it had submitted final recommendations to the Governing Body if new evidence is adduced and brought to its notice. Similarly, the Committee does not re-examine allegations on which it has already given an opinion: for example, when a complaint refers to a law that it has already examined and, as such, does not contain new elements.⁹

⁹ See 297th Report, para. 13.

Form of the complaint

40. Complaints must be presented in writing, duly signed by a representative of a body entitled to present them, and they must be as fully supported as possible by evidence of specific infringements of trade union rights.

41. When the Committee receives, either directly or through the United Nations, mere copies of communications sent by organizations to third parties, such communications do not constitute formal complaints and do not call for action on its part.

42. Complaints originating from assemblies or gatherings which are not bodies having a permanent existence or even bodies organized as definite entities and with which it is impossible to correspond, either because they have only a temporary existence or because the complaints do not contain any addresses of the complainants, are not receivable.

Rules concerning relations with complainants

43. Complaints which do not relate to specific infringements of trade union rights are referred by the Director-General to the Committee on Freedom of Association for opinion, and the Committee decides whether or not any action should be taken on them. In cases of this kind, the Director-General is not bound to wait until the Committee meets, but may contact the complainant organization directly to inform it that the Committee's mandate only permits it to deal with questions concerning freedom of association and to ask it to specify, in this connection, the particular points that it wishes to have examined by the Committee.

44. The Director-General, on receiving a new complaint concerning specific cases of infringement of freedom of association, either directly from the complainant organization or through the United Nations, informs the complainant that any information he may wish to furnish in substantiation of the complaint should be communicated to him within a period of one month. In the event that supporting information is sent to the ILO after the expiry of the one month period provided for in the procedures it will be for the Committee to determine whether this information constitutes new evidence which the complainant would not have been in a position to adduce within the appointed period; in the event that the Committee considers that this is not the case, the information in question is regarded as irreceivable. On the other hand, if the complainant does not furnish the necessary information in substantiation of a complaint (where it does not appear to be sufficiently substantiated) within a period of one month from the date of the Director-General's acknowledgement of receipt of the complaint, it is for the Committee to decide whether any further action in the matter is appropriate.

45. In cases in which a considerable number of copies of an identical complaint are received from separate organizations, the Director-General is not required to request each separate complainant to furnish further information; it is normally sufficient for the Director-General to address the request to the central organization in the country to which the bodies presenting the copies of the identical complaint belong or, where the circumstances make this impracticable, to the authors of the first copy received, it being understood that this does not preclude the Director-General from communicating with more than one of the said bodies if this appears to be warranted by any special circumstances of the particular case. The Director-General will transmit to the government

concerned the first copy received, but will also inform the government of the names of the other complainants presenting the copies of the identical complaints.

46. When a complaint has been communicated to the government concerned and the latter has presented its observations thereon, and when the statements contained in the complaint and the government's observations merely cancel one another out but do not contain any valid evidence, thereby making it impossible for the Committee to reach an informed opinion, the Committee is authorized to seek further information in writing from the complainant in regard to questions concerning the terms of the complaint requiring further elucidation. In such cases, it has been understood that, on the one hand, the government concerned, as defendant, would have an opportunity to reply in its turn to any additional comments the complainants may make, and, on the other hand, that this method would not be followed automatically in all cases but only in cases where it appears that such a request to the complainants would be helpful in establishing the facts.

47. Subject to the two conditions mentioned in the preceding paragraph, the Committee may, moreover, inform the complainants, in appropriate cases, of the substance of the government's observations and invite them to submit their comments thereon within a given period of time. In addition, the Director-General may ascertain whether, in the light of the observations sent by the government concerned, further information or comments from the complainants are necessary on matters relating to the complaint and, if so, may write directly to the complainants, in the name of the Committee and without waiting for its next session, requesting the desired information or the comments on the government's observations by a given date, the government's right to reply being respected as is pointed out in the preceding paragraph.

48. In order to keep the complainant regularly informed of the principal stages in the procedure, the complainant is notified, after each session of the Committee, that the complaint has been put before the Committee and, if the Committee has not reached a conclusion appearing in its report, that – as appropriate – examination of the case has been adjourned in the absence of a reply from the government or the Committee has asked the government for certain additional information.

Prescription

49. While no formal rules fixing any particular period of prescription are embodied in the procedure for the examination of complaints, it may be difficult – if not impossible – for a government to reply in detail to allegations regarding matters which occurred a long time ago.

Withdrawal of complaints

50. When the Committee has been confronted with a request submitted to it for the withdrawal of a complaint, it has always considered that the desire expressed by an organization which has submitted a complaint to withdraw this complaint constitutes an element of which full account should be taken, but it is not sufficient in itself for the Committee to automatically cease to proceed further with the case. In such cases, the

Committee has decided that it alone is competent to evaluate in full freedom the reasons put forward to explain the withdrawal of a complaint and to endeavour to establish whether these appear to be sufficiently plausible so that it may be concluded that the withdrawal is being made in full independence. In this connection, the Committee has noted that there might be cases in which the withdrawal of a complaint by the organization presenting it was the result not of the fact that the complaint had become without purpose, but of pressure exercised by the government against the complainants, the latter being threatened with an aggravation of the situation if they did not consent to this withdrawal.

Rules for relations with the governments concerned

51. By membership of the International Labour Organization, each member State is bound to respect a certain number of principles, including the principles of freedom of association which have become customary rules above the Conventions.¹⁰

52. If the original complaint or any further information received in response to the acknowledgement of the complaint is sufficiently substantiated, the complaint and any such further information are communicated by the Director-General to the government concerned as quickly as possible; at the same time the government is requested to forward to the Director-General, before a given date, fixed in advance with due regard to the date of the next meeting of the Committee, any observations which it may care to make. When communicating allegations to governments, the Director-General draws their attention to the importance which the Governing Body attaches to receiving the governments' replies within the specified period, in order that the Committee may be in a position to examine cases as soon as possible after the occurrence of the events to which the allegations relate. If the Director-General has any difficulty in deciding whether a particular complaint can be regarded as sufficiently substantiated to justify him in communicating it to the government concerned for its observations, it is open to him to consult the Committee before taking a decision on the matter.

53. In cases in which the allegations concern specific enterprises, or in appropriate cases, the letter by which the allegations are transmitted to the government requests it to obtain the views of all the organizations and institutions concerned so that it can provide a reply to the Committee that is as complete as possible. However, the application of this rule of procedure should not result in practice in delay in having recourse to urgent appeals made to governments, nor in the examination of cases.

54. A distinction is drawn between urgent cases, which are addressed on a priority basis, and less urgent cases. Matters involving human life or personal freedom, or new or changing conditions affecting the freedom of action of a trade union movement as a whole, cases arising out of a continuing state of emergency and cases involving the dissolution of an organization, are treated as cases of urgency. Priority of treatment is also given to cases on which a report has already been submitted to the Governing Body.

55. In all cases, if the first reply from the government in question is of too general a character, the Committee requests the Director-General to obtain all necessary additional information from the government, on as many occasions as it judges appropriate.

¹⁰ Report of the Fact-Finding and Conciliation Commission on Freedom of Association concerning the situation in Chile, 1975, para. 466.

56. The Director-General is further empowered to ascertain without, however, making any appreciation of the substance of a case, whether the observations of governments on the subject matter of a complaint or governments' replies to requests for further information are sufficient to permit the Committee to examine the complaint and, if not, to write directly to the government concerned, in the name of the Committee, and without waiting for its next session, to inform it that it would be desirable if it were to furnish more precise information on the points raised by the Committee or the complainant.

57. The purpose of the whole procedure set up in the ILO for the examination of allegations of violations of freedom of association is to promote respect for trade union rights in law and in fact. If the procedure protects governments against unreasonable accusations, governments on their side should recognize the importance for their own reputation of formulating, so as to allow objective examination, detailed replies to the allegations brought against them. The Committee wishes to stress that, in all the cases presented to it since it was first set up, it has always considered that the replies from governments against whom complaints are made should not be limited to general observations.

58. In cases where governments delay in forwarding their observations on the complaints communicated to them, or the further information requested of them, the Committee mentions these governments in a special introductory paragraph to its reports after the lapse of a reasonable time, which varies according to the degree of urgency of the case and of the questions involved. This paragraph contains an urgent appeal to the governments concerned and, as soon as possible afterwards, special communications are sent to these governments by the Director-General on behalf of the Committee.

59. These governments are warned that at its following session the Committee may submit a report on the substance of the matter, even if the information awaited from the governments in question has still not been received.

60. Cases in respect of which governments continue to fail to cooperate with the Committee, or in which certain difficulties persist, are mentioned in a special paragraph of the introduction to the Committee's report. The governments concerned are then immediately informed that the chairman of the Committee will, on behalf of the Committee, make contact with their representatives attending the session of the Governing Body or the International Labour Conference. The chairman will draw their attention to the particular cases involved and, where appropriate, to the gravity of the difficulties in question, discuss with them the reasons for the delay in transmitting the observations requested by the Committee and examine with them various means of remedying the situation. The chairman then reports to the Committee on the results of such contacts.

61. In appropriate cases, where replies are not forthcoming, ILO external offices may approach governments in order to elicit the information requested of them, either during the examination of the case or in connection with the action to be taken on the Committee's recommendations, approved by the Governing Body. With this end in view the ILO external offices are sent detailed information with regard to complaints concerning their particular area and are requested to approach governments which delay in transmitting their replies, in order to draw their attention to the importance of supplying the observations or information requested of them.

62. In cases where the governments implicated are obviously unwilling to cooperate, the Committee may recommend, as an exceptional measure, that wider publicity be given to the allegations, to the recommendations of the Governing Body and to the negative attitude of the governments concerned.

63. The procedure for the examination of complaints of alleged infringements of the exercise of trade union rights provides for the examination of complaints presented against member States of the ILO. Evidently, it is possible for the consequences of events which gave rise to the presentation of the initial complaint to continue after the setting up of a new State which has become a Member of the ILO, but if such a case should arise, the complainants would be able to have recourse, in respect of the new State, to the procedure established for the examination of complaints relating to infringements of the exercise of trade union rights.

64. There exists a link of continuity between successive governments of the same State and, while a government cannot be held responsible for events which took place under a former government, it is clearly responsible for any continuing consequences which these events may have had since its accession to power.

65. Where a change of regime has taken place in a country, the new government should take all necessary steps to remedy any continuing effects which the events on which the complaint is based may have had since its accession to power, even though those events took place under its predecessor.

Requests for the postponement of the examination of cases

66. With regard to requests for the postponement of the examination of cases by the complainant organization or the government concerned, the practice followed by the Committee consists of deciding the question in full freedom when the reasons given for the request have been evaluated and taking into account the circumstances of the case.¹¹

On-the-spot missions

67. At various stages in the procedure, an ILO representative may be sent to the country concerned, for example in the context of direct contacts, with a view to seeking a solution to the difficulties encountered, either during the examination of the case or at the stage of the action to be taken on the recommendations of the Governing Body. Such contacts, however, can only be established at the invitation of the governments concerned or at least with their consent. In addition, upon the receipt of a complaint containing allegations of a particularly serious nature, and after having received the prior approval of the chairman of the Committee, the Director-General may appoint a representative whose mandate would be to carry out preliminary contacts for the following purposes, viz: to transmit to the competent authorities in the country the concern to which the events described in the complaint have given rise; to explain to these authorities the principles of freedom of association involved; to obtain from the authorities their initial reaction, as well as any comments and information with regard to the matters raised in the complaint; to explain to the authorities the special procedure in cases of alleged infringements of trade union rights and, in particular, the direct contact method which may subsequently be requested by the government in order to facilitate a full appraisal of the situation

¹¹ See 274th Report, Cases Nos. 1455, 1456, 1696 and 1515, para. 10.

by the Committee and the Governing Body; to request and encourage the authorities to communicate as soon as possible a detailed reply containing the observations of the government on the complaint. The report of the representative of the Director-General is submitted to the Committee at its next meeting for consideration together with all the other information made available. The ILO representative can be an ILO official or an independent person appointed by the Director-General. It goes without saying, however, that the mission of the ILO representative is above all to ascertain the facts and to seek possible solutions on the spot. The Committee and the Governing Body remain fully competent to appraise the situation at the outcome of these direct contacts.

68. The representative of the Director-General charged with an on-the-spot mission will not be able to perform his task properly and therefore be fully and objectively informed on all aspects of the case if he is not able to meet freely with all the parties involved.¹²

Hearing of the parties

69. The Committee will decide, in the appropriate instances and taking into account all the circumstances of the case, whether it should hear the parties, or one of them, during its sessions so as to obtain more complete information on the matter. It may do this especially: (a) in appropriate cases where the complainants and the governments have submitted contradictory statements on the substance of the matters at issue, and where the Committee might consider it useful for the representatives of the parties to furnish orally more detailed information as requested by the Committee; (b) in cases in which the Committee might consider it useful to have an exchange of views with the governments in question, on the one hand, and with the complainants, on the other, on certain important matters in order to appreciate more fully the factual situation and the eventual developments in the situation which might lead to a solution of the problems involved, and to seek to conciliate on the basis of the principles of freedom of association; (c) in other cases where particular difficulties have arisen in the examination of the questions involved or in the implementation of its recommendations, and where the Committee might consider it appropriate to discuss the matters with the representative of the government concerned.

Effect given to the Committee's recommendations

70. In all cases where it suggests that the Governing Body should make recommendations to a government, the Committee adds to its conclusions on such cases a paragraph proposing that the government concerned be invited to state, after a reasonable period has elapsed and taking account of the circumstances of the case, what action it has been able to take on the recommendations made to it.

71. A distinction is made between countries which have ratified one or more Conventions on freedom of association and those which have not.

72. In the first case (ratified Conventions) examination of the action taken on the recommendations of the Governing Body is normally entrusted to the Committee

¹² See 229th Report, Case No. 1097, para. 51.

of Experts on the Application of Conventions and Recommendations, whose attention is specifically drawn in the concluding paragraph of the Committee's reports to discrepancies between national laws and practice and the terms of the Conventions, or to the incompatibility of a given situation with the provisions of these instruments. Clearly, this possibility is not such as to hinder the Committee from examining, through the procedure outlined below, the effect given to certain recommendations made by it; this can be of use taking into account the nature or urgency of certain questions.

73. In the second case (non-ratified Conventions), if there is no reply, or if the reply given is partly or entirely unsatisfactory, the matter may be followed up periodically, the Committee instructing the Director-General at suitable intervals, according to the nature of each case, to remind the government concerned of the matter and to request it to supply information as to the action taken on the recommendations approved by the Governing Body. The Committee itself, from time to time, reports on the situation.

74. The Committee may recommend the Governing Body to attempt to secure the consent of the government concerned to the reference of the case to the Fact-Finding and Conciliation Commission. The Committee submits to each session of the Governing Body a progress report on all cases which the Governing Body has determined warrant further examination. In every case in which the government against which the complaint is made has refused to consent to referral to the Fact-Finding and Conciliation Commission or has not within four months replied to a request for such consent, the Committee may include in its report to the Governing Body recommendations as to the "appropriate alternative action" which, in the opinion of the Committee, the Governing Body might take. In certain cases, the Governing Body itself has discussed the measures to be taken where a government has not consented to a referral to the Fact-Finding and Conciliation Commission.