

Committee on the Application of Standards

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Eighth sitting, 10 June 2021, 1 p.m.**Huitième séance, 10 juin 2021, 13 heures****Octava sesión, 10 de junio de 2021, 13 horas**

Chairperson: Ms Mvondo

Présidente: M^{me} Mvondo

Presidenta: Sra. Mvondo

Work of the Committee

PV – Discussion of cases of serious failure, PV.2 and 3 are adopted, as amended.

Travaux de la commission

La commission a adopté le PV relatif à la discussion des cas de manquements graves et les PV.2 et 3, tels qu'amendés.

Trabajos de la Comisión

Las actas de la discusión de los casos de incumplimiento grave, del PV.2 y del PV.3 se adoptaron, en su tenor modificado.

Présidente – Notre séance, comme annoncé dans le programme de travail de notre commission, sera dédiée à l'examen de deux cas individuels: le Cambodge, pour l'application de la convention (n° 87) sur la liberté syndicale et la protection du droit

syndical, 1948; et le Mozambique, pour l'application de la convention (n° 122) sur la politique de l'emploi, 1964.

Je profite de ce moment pour saluer notre rapporteur, M. Pedro Pablo Silva, qui accompagne les travaux de notre commission depuis le Chili. Monsieur Pablo Silva, nous espérons que vous allez bien. Je regrette que vous ne soyez pas près de moi sur le podium pour suivre les discussions, mais je suis convaincue que ceci ne vous empêchera pas de présenter un excellent rapport à la plénière de la Conférence. Je vous souhaite une bonne continuation des travaux.

Avant de donner la parole au représentant gouvernemental du Cambodge, et pour que nos discussions puissent se dérouler dans les meilleures conditions possibles, j'aimerais souligner une nouvelle fois l'importance d'envoyer la copie électronique de vos interventions à: standardsinterpret@ilo.org.

Une nouvelle fois, je vous rappelle qu'il est important, pour le bon déroulement de nos travaux, que l'inscription sur la liste des orateurs se fasse 24 heures à l'avance, et je vous demande d'éviter les inscriptions de dernière minute. Par ailleurs, dès lors que la discussion sur un cas aura commencé, nous ne serons plus en mesure d'enregistrer de nouveaux orateurs.

En prélude à l'examen de son cas, le gouvernement du Cambodge a envoyé des informations écrites, qui sont disponibles dans la section «Discussion des cas individuels» sur la page de la commission.

Avant de passer à l'examen du premier cas, je vous prierais de bien vouloir respecter le temps de parole qui vous est attribué et qui est affiché sur l'écran. Je sais combien les réductions de temps de parole peuvent être difficiles à gérer, mais il est pour moi encore plus difficile d'avoir à vous interrompre, et je sais que c'est très frustrant pour vous d'être

interrompu avant d'avoir pu exprimer le fond de votre pensée. Je vous prie donc tous de respecter les limitations de temps.

Discussion of individual cases (cont.)
Discussion des cas individuels (suite)
Discusión de los casos individuales (cont.)

Cambodge (ratification: 1999)

[Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#)
[Convention \(n° 87\) sur la liberté syndicale et la protection du droit syndical, 1948](#)
[Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 \(núm. 87\)](#)

Government representative (Ms SOVANN) – First of all, my delegation wishes to join other distinguished delegates in warmly congratulating you and the Vice-Chair for being selected to lead the Committee on the Application of Standards. There is no doubt that the Committee is a cornerstone of the supervisory system of the ILO and has played an important role in ensuring the application of international labour standards.

So too does the Royal Government of Cambodia, which is committed to ensuring that all rights and obligations enshrined in all relevant international instruments ratified by Cambodia are honoured. As a country with outstanding records of ratification of all core international labour Conventions, Cambodia is committed to cooperating closely and constructively, based on mutual respect, with all social and development partners, to ensure the protection of labour rights and harmonious industrial relations, to maintain peace and stability and to further boost the economic development of Cambodia.

Therefore, with the above spirit in mind, Cambodia has been constantly actively engaging with the ILO supervisory mechanism. In addition to the information voluntarily submitted to the Committee last month, my delegation has the honour to further provide the Committee with updates on the application of the Convention in Cambodia.

I would like to recall that, following the Committee's adoption of recommendations of the direct contacts mission and with the ILO's technical support, Cambodia has endorsed a road map on implementation of the ILO recommendations concerning freedom of association, with extensive consultations with all relevant stakeholders. This road map defines time-bound actions and guidelines in order to implement the ILO recommendations, as well as strengthening the application of the Convention.

With continued support and cooperation from the ILO, a number of achievements have been made, particularly with regard to trade union registration, protection for trade union leaders and capacity-building on the exercise of freedom of association in order to promote the exercise of freedom of association in Cambodia.

In succession, Cambodia has reported its progress in the implementation of the road map to the ILO and relevant stakeholders.

My delegation took note of the observations made by the Committee of Experts as to the amendment to the Law on Trade Unions. We would like to reiterate that the Law on Trade Unions is a crucial legislation to uphold the rights to the professional organizations, as set forth in the Constitution of the Kingdom of Cambodia, the Labour Law, and Conventions Nos 87 and 98. Following the adoption in 2016, and in response to the actual context of the country, this law was amended and came into effect in early 2020.

My delegation would like to take this opportunity to highlight that the purpose of the amendment to the Law on Trade Unions are to: further promote the freedom of association of domestic workers; facilitate the procedures and formalities of trade union registration and maintaining registration; facilitate the requirements to acquire the multi representative status; and to promote the rights and duties of minority worker unions.

In this regard, I wish to draw the Committee's attention to the fact that the number of registered trade unions has increased considerably after the adoption of the Law on Trade Unions in 2016 and its amendment in 2020. As of March 2021, there are 5,546 registered trade unions, out of which 290 trade unions were registered after the amendment to the Law on Trade Unions, despite the COVID-19 pandemic. This number is an eloquent testimony to conducive environment for the exercise of freedom of association in Cambodia.

As to the rights of workers and employers to establish and to join organizations, in response to the observation made by the Committee of Experts, the amended article 3 of the Law on Trade Unions includes domestic workers, personnel working in the air and maritime transportation, and those who work in informal sectors.

In this connection, domestic workers, workers in the informal economy and teachers who are not civil servants are free to form a worker union of their own choice to promote or protect their interests as long as the conditions stipulated under the Law on Trade Unions are satisfied.

The Government of Cambodia, through the Ministry of Education, Youth and Sport, firmly upholds the rights, freedom, dignity and profession of all teachers and education personnel who freely practise their rights and freedom within the existing framework of laws and regulations. The teachers and education personnel have the rights to form associations, unions and/or educational organizations to serve and protect their legal rights and interests. In any circumstances, teacher association, union and/or educational organization cannot be by any means the extension of any political party and needs to follow the laws and legal regulations, which are currently in practice. They have the right to join any political activity by relevant laws and legal regulations.

Regarding the application of Article 2 of the Convention, the Law on Association and Non-Governmental Organization is being reviewed following consultations with civil society in 2020. The amendment to this law is expected to take place in the near future.

In response to the observation of the Committee of Experts regarding Khmer literacy requirement, my delegation would like to shed factual light that, in the Cambodian context, particularly in promoting harmonious industrial relations, this requirement is requisite and is not incompatible with the Convention. The agreement on this requirement has been reached following discussion in the tripartite consultation workshops and, in practice, there is no concern raised with respect to this matter.

My delegation also took note of the observation of the Committee of Experts regarding the dissolution of trade unions. I would like to reassure that the Government of Cambodia has put its utmost effort to ensure that the interests of trade unions and their members are well protected. The amendment to the provision of the Law on Trade Unions as to this matter was made in accordance with the comment from the Committee of Experts and the suggestion from social partners during the tripartite consultations.

Under the amended legal provision, a local worker union will not be immediately dissolved upon the closure of the enterprise, unless the employers' obligation towards their workers has been fulfilled, in accordance with the court decision. It is aimed to determine requirement in which a worker union no longer maintains or possesses its legal personality.

My delegation would like to clarify that, under the amended article 29 of the Law on Trade Unions, party concerned or 50 per cent of the union's members may file a request with the court for dissolution of a union, although it is not a ground for dissolution. Under the same legal provision, the court may decide to dissolve a professional organization if it is found that the ground for dissolution is satisfied and the organization

fails to rectify its shortcomings within the time frame set by judicial discretion. This process ensures that the entity concerned may exercise its right to defend itself before the court and has sufficient time to prove to the judicial authority that its legal personality could be maintained.

While the amendment to the Law on Trade Unions has been recently adopted, we would like to take this opportunity to request technical assistance from the ILO and call for collaboration from relevant stakeholders to conduct awareness-raising and capacity-building to strengthening its implementation.

We would like to also inform the Committee that an annual review of the implementation of the Law on Trade Unions is scheduled through the Labour Forum which is a tripartite mechanism to review the challenges of the implementation of the laws and regulations in force.

Taking note of the Committee of Experts' observation on independent adjudication mechanisms, we would like to reiterate our firm commitment to supporting the operation of the Arbitration Council, gathering both technical and financial support from stakeholders to ensure the sustainability of this institution. Based on the current context of the draft amendment to the Labour Law, the Arbitration Council will be able to hear individual labour disputes in accordance with specific criteria to be defined in the Prakas of the Ministry of Labour and Vocational Training. The Ministry of Labour and Vocational Training is working closely with the Arbitration Council Foundation and the Arbitration Council to prepare necessary implementing regulations following the adoption of the amendment to the Labour Law in this regard.

My delegation would like to reiterate that, in Cambodia, there has never been a case in which an individual was arrested or convicted for their legitimate union activities. As a democratic country adhering to the rule of law, all Cambodian citizens are equally

treated before the law regardless of their political affiliation, profession, or social status as guaranteed by the Constitution.

As stated earlier, the trade unionists are also citizens, so they shall also be responsible before the laws for their wrongdoings. Individuals are prosecuted or convicted by judicial authority not because of who they are, but because of offences they have been committing. In any circumstances, legitimate union rights should not be construed as a shield for law breaking. And the Convention also does not provide any privilege to impunity to trade unionists. Having said that does not mean Cambodia overlooks the legitimate union rights. We are upholding and protecting union rights without denigrating the rule of law and undermining law-abiding citizens.

Once again, we would like to request close and genuine collaboration from the relevant stakeholders regarding their observation and allegation, in particular with trade union discrimination. The Ministry of Labour and Vocational Training stays ready at contact for immediate action concerning the above-mentioned issues. We do need to gather factual information as well as evidence before addressing those issues and we would like to thank our social partners who keep engaging with us in this regard.

As above-mentioned, Cambodia made considerable progress on the application of the Convention, notably in rendering conducive environment for exercise of freedom of association free from violence and intimidation, which is contrary to the allegation raised.

We would like to request your kind attention to consider the progress made by our Government and challenges we face, particularly during this unprecedented time. We would like to take this opportunity to request all stakeholders' collaboration in implementing the road map on implementation of ILO recommendations concerning freedom of association and Cambodia avails itself of the ILO's continued technical

support. We will continue working with relevant stakeholders and provide parties concerned with legal assistance to conclude their pending cases.

To conclude, I would like to reassure the Committee that Cambodia remains committed to promoting, protecting, and adhering to all duties and obligations stipulated in the relevant instruments to which it is party. We will be pleased to provide further information upon request.

Worker members – With factories closed due to cancelled or reduced orders, hotels vacant, construction halted, and the informal economy swelling as a result of the COVID pandemic, many workers in Cambodia have struggled to survive over the last year.

All of this came on top of an already difficult environment for workers' rights, so bad in fact that the EU partially suspended its "Everything But Arms" trade preference programme, over labour and other human rights violations. I will refer to just a few issues in my opening remarks.

Regarding emergency laws, over the past year, the Government passed a number of emergency laws and decrees that restrict the exercise of freedom of association.

On 10 April 2020, the Law on the Management of the Nation in Emergencies was enacted, granting the Government broad powers to ban meetings and gatherings; to survey telecommunications; to mobilize the military; to ban or restricting news media that may harm "national security" and other measures that are "suitable and necessary". Infractions are punishable by heavy imprisonment terms and fines.

In March 2021, another law, the Law on Measures to Prevent the Spread of Covid-19 and other Serious, Dangerous and Contagious Diseases, also includes bans on gatherings and unspecified "administrative and other measures that are necessary to respond and prevent the spread of Covid-19". Such vague provisions allow for abuses by

the authorities by arbitrarily targeting people and organizations protesting government policies.

A deeply problematic draft public order law would require approval from authorities for the use of public spaces and would permit authorities to stop an event if authorization has not been sought.

Regarding criminalization of labour protests; in July 2020, union leader Rong Chhun was arrested and charged with “incitement to commit a felony or cause social unrest”. Dozens of police surrounded his house at night and arrested him without a warrant. There is no evidence that Chhun committed any offence. Indeed, the arrest follows his advocacy for villagers in a land dispute along the Cambodia–Vietnam border.

Also arrested last year was Mrs Soy Sros, president of a local union affiliated to CUMW. She was detained on 3 April 2020 by police in Kompong Speu Province pursuant to a criminal complaint filed against her by the employer for having posted messages on Facebook related to a labour dispute concerning the unjust dismissal of a number of union members.

Regarding obstacles to registration; despite some amendments to the application forms, the registration of trade unions remains difficult, with applications denied for arbitrary reasons or for extremely minor technical errors.

In one case, a union submitted its application to the Ministry of Labour (MOLVT) on 25 December 2020, with all ten types of documents (in line with Prakas 249 and notification No. 039). In the first week of February 2021, local union leaders were called by the Ministry (MOLVT) for the first time to correct spelling mistakes on the cover letter and in the profile of union leaders.

On 15 February, local union leaders resubmitted the corrected documents to the Ministry. Over two months later, on 7 May 2021, local union leaders were called a second time to correct the size of the photos of the union leaders from (3x4) to (4x6) and resubmitted once again.

As of 18 May 2021, the union is still not registered, after having expended considerable time and resources to submit the application.

This case is not an aberration, as others have reported similar efforts by the authorities to deny union registration over issues that have nothing to do with ascertaining whether workers have expressed their intent to be represented by a union.

Regarding legislative matters; for many years, the Committee of Experts and this Committee have raised concerns with regard to several aspects of the Law on Trade Unions.

In December 2019, several amendments to the Law were enacted. However, they still fail to bring the Law on Trade Unions into compliance with the Convention.

Moreover, trade unions report that the Government did not meaningfully engage with them and refused to consider the union's proposed amendments, which would have ensured compliance with the Convention.

While not exhaustive, I note some of our concerns; domestic workers, workers in the informal economy and others not organized on an enterprise model still cannot in practice form and join unions, and teachers who are civil servants are not covered by the Law on Trade Unions but rather the regressive Law on Associations and Non-Governmental Organizations so called (LANGO).

The law still grants excessive financial control by the authorities, including unlimited audits, which infringes the right of workers to administer their organizations.

The eligibility criteria for electing trade union leaders, including those related to residency and literacy, deny the right to elect trade union representatives in full freedom.

The law still provides broad grounds to request the dissolution of a union, rather than leaving that matter to the union's statutes and, the law limits the rights of minority unions to bargain on behalf of their own members, which is not conducive to the promotion of collective bargaining and affects the right to join unions of own choosing.

Regarding unions denied ability to represent members, one of the most concerning developments is the refusal of the Ministry of Labour (MOLVT) to allow upper-level trade unions to represent their members in collective disputes.

In one case, in April 2020, a collective labour dispute conciliation was being carried out at the Siem Reap Labour Department and included leaders of the local union with the most representative status, as well as the president of the federation and the vice-president of the confederation.

During the conciliation, the Chief of the Disputes Office declared that leaders of federations and confederations were not allowed to speak during the meeting and threatened to dismiss them if they did not comply. They were told, erroneously, that they could not participate because unions with most representative status could not have anyone represent them.

It is a serious violation of the right to freedom of association to deny a local union the support of upper-level unions to which it is affiliated.

Again, this is no aberration, as other unions have reported that they have been prohibited from representing the interests of their members in collective disputes, which is guaranteed in the law for MRS and MRS unions so long as in the latter case the dispute does not arise out of the collective agreement.

In practice, finally, we note that across the country, unionized leaders and members have been targeted for dismissal during retrenchments provoked by the COVID pandemic. The same story is playing out too in garment factories across the country.

I will note here before closing that we are deeply concerned especially with regard to violence and impunity, including state-sponsored violence. Indeed, there still has been no resolution with regard to the murders of Chea Vichea, Ros Sovannareth and Hy Vuthy after so many years. There still remain after seven years unsolved cases concerning the arbitrary arrests and detention of trade unionists following the 2014 protests.

I will come back to these matters more fully in my closing comments. And, you will hear more from the worker representative from Cambodia and from other countries on these and other issues before I conclude.

Employers members – I would like to begin by thanking the Government representative for her detailed submissions today and welcome her comments regarding the Government's commitment to the application of the Convention in Cambodia.

I would like to begin by addressing a number of legislative issues that are present in the case and included in the Experts' observations. However, I note at the outset that the Worker representative mentioned several pieces of legislation that, in our view, are not part of the scope of this case. The Employers will only refer to the issues in legislation properly within the scope of the discussion of this case.

First, the Committee of Experts took note of information provided by the Government on the process to prepare amendments on the Law on Trade Unions, in consultation with the social partners and together with technical support of the ILO. We would therefore note, at the outset, we view this to be a measure of progress in this case

and welcome the developments and engagement of the Government with the ILO and the social partners in this regard.

The Government, in its submission to the CAS, has informed us that the Law on Amendments to the LTU was promulgated on 3 January 2020 and attached a copy with its submission. For this information we are appreciative.

The Experts, in their previous comments, have urged the Government to take appropriate measures in consultation with the social partners to ensure that civil servants, including teachers, have freedom of association rights and that the legislation is amended accordingly.

The Experts, in their current observations, have urged the Government to take appropriate measures and to provide information regarding the freedom of association rights by both civil servants, as well as domestic workers, and workers in the informal economy.

The Employers request that the Government continue to identify appropriate legal measures in consultation with the social partners to ensure that civil servants not covered by the LTU have the freedom of association rights guaranteed under the Convention.

The Employers encourage the Government to discuss with the social partners the possibility of allowing the formation of unions by sector or profession, and discuss the removal of any legal difficulties for domestic workers to create or join trade unions.

The Committee of Experts has requested, in its previous comments, the Government to amend sections 20, 21 and 31 of the LTU to remove the requirement that one must be able to read and write Khmer from the eligibility criteria of foreigners and

the Experts have requested the Government to provide information on any developments in this respect.

The Employers note that the literacy requirements in sections 20, 21 and 38 of the LTU may interfere with the autonomy of employers' and workers' organizations as guaranteed in Article 3 of the Convention. While these organizations may or may not include such a requirement in their own statutes, it must not be imposed by law. The Employers therefore call upon the Government to remove the literacy requirements from this legislation.

The Committee of Experts recalled in its earlier request to the Government in respective amendments to section 28 of the LTU, which provides that a union is automatically dissolved in the event of a complete closure of an enterprise or establishment. The Committee of Experts requested that the Government take the necessary measures to amend section 28 of the LTU by removing paragraph 2.

The Employers' group notes that the dissolution of employers' and workers' organizations should either be regulated in the statute of the organization or be decided by a court. An automatic dissolution by law is not in compliance with Article 4 of Convention No. 87. The Employers therefore call upon the Government to repeal paragraph 2 of section 28 of the LTU.

The Employers also note that, in line with Article 3 of the Convention, it is for workers' or employers' associations to determine in their statutes the rules and procedures for their dissolution, when initiated by their members. This should not be regulated by law and therefore the Employers call upon the Government to repeal section 29 of the LTU.

The Committee of Experts observed with satisfaction that the 2019 amendments removed paragraph (c) of section 29 of the LTU. This provision provided that a union or

employers' association shall be dissolved by the labour court in cases where leaders, managers or those responsible for the administration were found guilty of committing a serious act of misconduct or offence on behalf of either the union or employer association.

The Employers note with satisfaction the effect of this legal change and appreciate the Government's engagement on this issue.

In looking at the issue of independent adjudicative mechanisms, the Committee of Experts recalled in earlier comments the importance of an effective judicial system as a safeguard against impunity, as well as an effective means to protect freedom of association rights.

The Experts request that the Government continue to provide information in respect of the strengthening of the Arbitration Council, including any measures undertaken to ensure that the Arbitration Council awards are duly enforced.

The Employers note with satisfaction the Government's ongoing efforts to make the Arbitration Council an effective and sustainable institution in handling labour disputes. The Employers also encourage the Government to continue its endeavours in this regard and provide information on further measures taken.

Overall, the Employers therefore view the progress in amendments to legislation and the responsiveness of the Government to the issues raised by the Committee of Experts, the CAS, and with the provision of technical support from the Office, to be very positive. We welcome these steps and we wish to continue to encourage the Government to work towards full compliance in both law and practice.

We also will simply point out, in respect of the application of the Convention in law and practice, very briefly address allegations of arrests of trade unionists and violence.

At this moment, we wish to simply say that we recall that freedom of association can only be exercised in a climate free from violence and intimidation and we encourage the Government to ensure that it is taking all measures to create that climate, foster that climate, and promote a climate free of intimidation.

Worker member, Cambodia (Mr ATH) – I am President of the Cambodia Labour Confederation (CLC). As the Workers' delegate, I would like to stress on the labour situations are facing in Cambodia.

I have spoken in the Committee in previous examinations on this case, testified to the ILO direct contacts mission to Cambodia, and taken part in government consultations to implement the recommendation. I regret to inform that the challenges still remain for trade unions and workers.

In 2004, Chea Vichea, Ros Sovannareth and Hy Vuthy were murdered. Up to now, the murderers have not been found. The trade union victims in the general strike to demand higher wages in 2013, including the five workers killed, 23 workers jailed and others criminalized, are yet to receive justice. We urge the Government to continue investigations to return real justice for the victims.

Trade unionists in Cambodia are faced with criminal charges and civil litigations when exercising their rights. In late 2018, CLC forwarded 58 cases to the Ministry Of Labour among a total of 121 cases. By now only 16 criminal cases have been dropped. Forty-one civil litigations are not yet settled.

We urge the Government to continue the coordination to drop all the pending cases and liquidate the 41 collective disputes. Last year, two female union leaders were faced with fabricated criminal charges by a local pharmaceutical and a garment company after they had formed a trade union. One of them has been trialled in absentia and sentenced

to two-and-a-half-year imprisonment and a fine of \$100,000 to the company. The court issued an arrest warrant against her.

Mr Rong Chhun, President of CCU, was arrested on 31 July 2020. He spoke out for the interests of the farmers' land loss. He remains in prison without a date of trial. We urge the Government to drop all the cases, release all the union leaders and workers.

We regret that the action points in the Government's road map have not addressed the substance of the direct contacts mission recommendations or changed legal implementation and practices.

The amended Trade Unions Law still excludes the public servants. The self-employed and domestic workers still cannot form a trade union under the restriction of having at least ten workers in the same workplace. These worker associations have not been invited to attend the consultation to amend LANGO and the NGO law.

Trade union leaders are constantly faced with unfair dismissals when we extend support to our members and non-members in mass dismissals, discriminations and factory closures.

Even the federations and their local unions, which have been certified with the most representative status are barred by the labour dispute officers from representing members in workplace conciliation meetings.

It becomes a systematic pattern since the pandemic that collective labour disputes concerning industrial relations, business closures and mass lay-offs are misclassified as individual labour disputes by the labour dispute officers, in order to avoid the remedies afforded to shop stewards and union members in the law.

These new obstructions undermine the meaningful role of the trade unions in pursuing our rights protected by the Convention.

The ability of trade unions to effectively serve workers and our members is greatly inhibited by the restrictions under the Trade Union Law.

Employer member, Cambodia (Ms D'AMICO) – I am the Vice-President of the Employers' Association in Cambodia and I run an organization that represents all sectors in Cambodia on labour and social affairs. We were established in 2005 and have long since been working with the ILO and its bodies in addressing labour and social affairs in Cambodia.

It is with regret that we find ourselves on the Committee of Application and Standards again. It is not that we have not demonstrated progress as a country. On the contrary, I sense that the progress demonstrated in the report is significant and the Government has been very responsive to the matters on hand.

I hope that the house will recognize the improvements Cambodia has made, not only can these be seen in the comments in the report but also the reporting that the Government has provided. We encourage the Government to continue to strengthen the reporting quality and ensure that reports are provided on time to avoid the Committee escalating matters, when good work has been done within the country to address the matters that have been raised.

I will address quickly a few matters to ensure understanding of the local market.

First, I would like to comment that the Worker members opening remarks were in the majority not related to the case in hand. We cannot accept that this Committee and this house allows other matters to be discussed here today, except for those matters which are outlined in the case file. We will not accept that an outcome of our work today will go beyond the scope of the case described. I would like to point out again that the labour law in Cambodia covers employment relationships in Cambodia in all our employment sectors, except the public sector. The public sector is governed by the Civil

Codes of the Government, as well as other government administrative bodies and should not be confused in the discussions here with the Labour Law on Trade Unions, the LTU, as well as the general labour law in Cambodia.

The principles of freedom of association are well enshrined in the Constitution and in our laws. The methodologies we use to develop our laws are really inclusive of all the social partners and put forward our different views and opinions. Sufficient time is provided as well. Laws are crafted considering the local context and the state of development in the country.

Testimony to the freedom of association in Cambodia is clear from the number of unions that have been registered since the development of the Trade Union Law. As our Government representative mentioned, 5,546 unions have been registered. Of those, more 3,000 unions have been registered among 650 garment, footwear and handbag factories. That is around 4.6 unions per enterprise.

Multiplicity of unions within an enterprise has not produced any great outcomes for the Cambodian garment sector that suffered debilitating strikes prior to the development and implementation of the Trade Union Law. Rather it achieved weak collective bargaining agreements, multiple strikes, a disillusioned membership base and a lot of infighting among unions.

I think it is important to point out that freedom of association does not imply that anyone does not have the responsibility to abide by the law and follow the law. It is essential that our laws are addressing the challenges in the country and helping the country to move to more harmonious and constructive industrial relations, and all parties need to respect the law and be held accountable in front of the law if we break the law.

Laws that are tailored to consider the local context of our development as a country are very important. I stress this because the requirement to have an education level for unions, which now has been removed from the law, was critical to have to ensure that we raise the quality of the union movement in Cambodia. That said, the education requirement was removed, but in the event that a foreigner wishes to become a trade unionist this is totally within the Government's authority to require certain levels of education for foreign workers within the country to maintain and ensure the quality of employment for Cambodian people.

In Cambodia, we are developing laws from the ground up. We never had a trade union law, we developed a trade union law. We never had a social security law, we developed a social security law. To do this, you need a counterpart that has the ability to read and write and comprehend what we are discussing at the table. A simple baseline of requiring reading and writing seems to be a reasonable requirement in building up strong social partners in the country who are able to contribute effectively to the development of the social and labour laws in the country.

These are the few points that I would like to raise. I think I would like to stress again and hope that the Committee today recognizes the improvement that the country has made and that we continue to encourage the Government to strengthen its reporting quality and ensure that reports are provided on a timely manner so that Cambodia can continue to be an active player.

Government member, Portugal (Mr CLAUDINO DE OLIVEIRA) – I have the honour to speak on behalf of the European Union and its Member States. The Candidate Countries the Republic of North Macedonia, Montenegro and Albania, the EFTA country Norway, member of the European Economic Area, as well as the Republic of Moldova align themselves with this statement.

The EU and its Member States are committed to the promotion, protection, respect and fulfilment of human rights, including labour rights and the right to organize and freedom of association.

We actively promote the universal ratification and implementation of fundamental international labour standards and support the ILO in its indispensable role to develop, promote and supervise the application of international labour standards and of fundamental Conventions in particular.

The EU and its Member States have been committed development partners of Cambodia, among others, through the “Everything But Arms” arrangement under the EU’s Generalized Schemes of Preferences regime, granting duty-free and quota-free access to the EU markets, resulting in sustained growth and job creation in the past decades. However, due to serious and systematic violations of human rights, especially the right to political participation and fundamental freedoms, as of August 2020, this preferential treatment has been partially suspended.

Concerning labour rights and, in particular, freedom of association and protection of the right to organize, and in reference to legislative reforms, we regret that the Committee finds a structural lack of progress. We take note of the amendments to the Law on Trade Unions (LTU), in particular the extension of its coverage to domestic workers, teachers who are not civil servants and workers in the informal economy. Despite these changes, however, the revision of the LTU still fails to ensure conformity with the Convention, since the provisions of the law (article 10) do not allow the creation of unions by sector or profession, thus preventing an effective enjoyment of freedom of association and the right to organize by domestic workers and workers in the informal economy.

Similarly, the Law on Associations and Non-Governmental Organizations still contravenes the rights of freedom of association and the protection of the right to organize for civil servants, including teachers, under the Convention. In particular, serious deficiencies remain in relation to recognizing civil servants' associations' right to draw up their own constitutions and rules, to elect representatives, to organize activities and formulate programmes without interference of the public authorities.

We urge the Government to take the appropriate measures, in consultation with the social partners, and amend the legislation accordingly. It is also important that the full and effective enjoyment of these rights by domestic workers and workers in the informal economy is secured and protected. We also request the Government to amend other relevant sections of the LTU to respond to the Committee's observations regarding the dissolution of representative organizations.

Furthermore, we underline the need for an independent judicial system to guarantee the effective implementation of social partners' right to organize and protect their freedom of association. With the Committee, we welcome the Government's commitment to strengthen the Arbitration Council and underline its important role in the handling of collective disputes, as well as possibly individual disputes in the near future.

The EU remains deeply concerned about reports of continuous harassment, attacks and arrests of trade union leaders and urges the Government to take all necessary measures and actions to ensure the exercise of trade union rights and activities and that no criminal charges are brought against trade unionists for exercising their rights under the Convention. In this regard, we encourage the Government to continue to provide information on all pending criminal cases against trade unionists.

The EU remains deeply worried about the continued lack of concrete steps or results in the murder investigations of the three trade union leaders in 2004 and 2007, and calls on the Cambodian authorities to swiftly conclude the investigations and to bring the perpetrators to justice.

We also encourage Cambodia to remain vigilant on dismissals due to the COVID-19 crisis, in particular those that seem to be selectively targeting trade union leaders.

The EU and its Member States will continue to closely monitor the situation in Cambodia.

Government member, Thailand (Ms TECHAGOMAIN) – I have the honour to deliver this statement on behalf of ASEAN.

We welcome Cambodia's progress in implementing the Convention, notably the recent amendments to the Law on Trade Unions and the growing number of registered trade unions.

Cambodia has demonstrated its commitment and willingness to work towards protecting and promoting freedom of association in accordance with international labour standards. In particular, Cambodian authorities, together with the ILO and OHCHR, organized training for police officers on the "Rights to strike and peaceful demonstration". This is commendable.

We recognize the efforts made by the Cambodian Government to actively engage with the ILO supervisory mechanism and its social partners, including its timely submissions of regular progress reports of the road map on the implementation of the ILO recommendations concerning freedom of association. We hope that Cambodia would continue implementation of the ILO recommendations.

We commend Cambodia's active arrangements of the social dialogue mechanism in advancing harmonious industrial relations. In a constructive spirit, we encourage Cambodia and its social partners to continue employing the social dialogue process in the promotion of the exercise of freedom of association.

In light of above-said positive progresses and achievements as to the application of the Convention, ASEAN calls on the ILO and all partners to continue assisting and engaging constructively with Cambodia in this regard.

Worker member, Australia (Mr PERICA) – The Swiss Workers' delegation and Education International align themselves with this statement.

The COVID pandemic has been used by the Government to continue to deny free association and assembly to Cambodian workers. The last year has seen tightened monitoring of trade-union activities, harassment of union leaders, and interference with trade-union protests.

On 1 July 2020, Yang Sophorn, President of the Cambodian Alliance of Trade Unions, received a letter threatening to dissolve the union if she continued with her mediation of a collective labour dispute relating to the closure of a garment factory. Due to COVID restrictions, the CATU could not hold a congress before the expiry of its registration.

In July 2020, police blocked a demonstration of workers led by Rong Chhun, President of the Cambodian Confederation of Trade Unions, over the garment factory closure. On 31 July 2020, authorities arrested Rong Chhun. He was subsequently charged with "incitement to commit a felony" and he continues to be held in detention.

On 6 August 2020, the Labour Department threatened the Presidents of the Cambodian Tourism Workers' Union Federation and Le Meridien Angkor Trade Union

that both unions would be dissolved for allegedly organizing illegal strikes and blocking a public road outside a luxury hotel.

On 7 August, at least seven protesters were arrested at a solidarity protest demanding, in defiance of government warning, Rong Chhun's release.

On 10 August, the President of the Cambodian Independent Teachers Association, Ms Ouk Chayavy, was attacked and pushed off her motorbike after visiting Rong Chhun in prison. The CITA President was in the process of submitting petitions to the United Nations and the United States, demanding Rong Chhun's release.

In September 2020, police visited seven offices of labour organizations to inspect their registration and staff records. The police searched the office of the CITA claiming they were "conducting a census" and demanding information about the group's registration and activities.

On 30 September 2020, police broke into a CLC meeting, inspected the identification papers of all the participants, and of the programme and all the papers. Venue owners now decline to rent properties to trade unions or NGOs for their meetings because of the police harassment.

On 11 May 2021, Kang Nakorn, of the Independent Democracy of Informal Economy Association, was detained by police as he was gathering names of members facing economic difficulties during the COVID outbreak. On 25 May, Kang Nakorn was released but only on the basis that the IDEA would not mention the case publicly.

We implore the Government of Cambodia to ensure freedom of association can be exercised in a climate free of threats, intimidation, and violence.

Government member, United States of America (Ms MORENO) – The Government of Cambodia submitted information to this Committee in response to the

recent observations of the Committee of Experts. Recent developments since we last discussed this case in 2017 include: amendments to the 2016 Trade Union Law (TUL) in January 2020; police trainings in October 2019 for situations of public and industrial protest; and acquittal of six trade unionists in May 2019 for criminal charges related to January 2014 demonstrations.

Despite these efforts, significant challenges remain. The Committee of Experts notes ongoing reports of violence, arrests, as well as lack of progress in investigating the deaths of trade unionists. We urge the Government to continue building on recent efforts, prioritizing work in the following areas: first, ensure a climate free from intimidation and violence by increasing efforts to investigate, prosecute, and hold perpetrators accountable; second, ensure no criminal charges or sanctions are imposed for the peaceful exercise of trade union activities, including participation in public and industrial protests. We request more information about the alleged offences and laws used to arrest five trade unionists in August 2020; third, reform Prakas 249 on trade union registration, taking into account recent reports that some unions continue to experience challenges in registration; fourth, amend the process for determining case eligibility for the Arbitration Council by providing the Arbitration Council the authority to determine what disputes are collective; and finally, despite recent amendments to the 2016 TUL, further amendments are necessary to address gaps and issues of non-compliance, particularly with respect to article 55 on most representative status unions; article 28 on government authority to dissolve closed trade unions; and Chapter 15 on excessively high penalties for non-compliance with the Trade Union Law.

We urge the Government to take necessary measures to address these long-standing issues, in compliance with the Convention. The United States remains committed to engaging with the Government to advance worker rights in Cambodia.

Worker member, Japan (Ms GONO) – My intervention is aligned with SNTUC, Singapore and IndustriALL.

The garment sector in Cambodia is the most vulnerable sector, having majority workers in precarious employment. Garment unions, however, are systematically obstructed from representing the interests of their members in wage and compensation claims and their leaders are often sacked after they have filed to register a trade union.

The Government has adopted several subdecrees and amended the Trade Union Law to clarify the role of minority unions in representing the members in collective labour disputes. However, the Government has still failed to implement it. Rather, to represent union members, national federations are facing difficulties as follows.

In 2018, CCAWDU, which is a national garment union federation, representatives were rejected by the labour dispute officers from speaking and representing its members in the conciliation meetings over cases of discriminatory dismissals of the union leaders and improvement of working conditions. CCAWDU representatives received a warning letter from the labour ministry afterwards.

Also, there are abundant cases that union requests for the Arbitration Council are refused. Abundant cases show that Ministry of Labour has failed to invoke the anti-union discrimination procedures under the Labour Law and accepted redundancy layoffs and terminations by elected garment union leaders as non-renewable or short-term employment contract. Instead of the arbitration council, more and more industrial disputes, such as mass termination cases, have been forwarded to the Committee on the Settlement of Labour Strikes and Demonstrations. A conciliation led by the Committee is public security driven to prevent labour strikes and public protests. In all the cases forwarded to the Committee, the garment unions are pushed back and workers receive much lower compensation and benefits than guaranteed in the law.

I would like to reiterate that in order for unions to exercise the right of freedom of association, which is the most essential right, fair representation of union workers in dispute settlement should be guaranteed. We urge the Government to expedite its procedure to improve the judicial system, including strengthening the function of the Arbitration Council.

Membre gouvernemental, Suisse (M. MAHMOUD) – La suisse regrette le fait que nous devions à nouveau discuter du respect de la convention – une convention fondamentale – par le Cambodge.

Depuis 1999, le Cambodge figure régulièrement sur la liste des cas devant notre commission. Les syndicalistes indépendants et les travailleurs de divers secteurs sont encore discriminés, harcelés, menacés, arrêtés, ou encore emprisonnés lorsqu'ils tentent d'exercer leurs droits. À ce sujet, depuis la ratification, la commission d'experts a formulé plus de trente recommandations. Onze cas de violations ont été dénoncés auprès du Comité de la liberté syndicale, dont un est encore actif et deux font l'objet d'un suivi.

Aujourd'hui, la Suisse exprime sa préoccupation face à cette pression persistante sur les activités syndicales et regrette que la police utilise encore des méthodes violentes et intimidantes. Pour cette raison, la Suisse encourage, d'une part, l'assistante technique du BIT pour la formation des organes de sécurité, et, d'autre part, la coopération avec le Haut-Commissariat des Nations Unies aux droits de l'homme, visant à améliorer la connaissance des principes fondamentaux des droits de l'homme. C'est par le dialogue social et la négociation que la paix se construit.

La nécessité d'accélérer les procédures d'enquête, de fournir des informations sur les procédures pénales en cours et d'assurer le suivi de l'application de la convention dans la pratique reste une priorité.

Enfin, la Suisse exprime l'espoir que la loi sur le tribunal du travail ainsi que la loi sur les syndicats soient mises en conformité avec les normes internationales du travail.

Observer, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) (Ms JAİKLA) – Five years have passed since the promulgation of the Cambodian Trade Union Law in 2016. Collective bargaining remains a rare exception in regulating sound industrial relations in Cambodia. The enforcement of the law and the certification of most representative status for collective bargaining has not been accompanied with effective sanctions against employers' refusals to recognize the trade unions and bargain, or accountability of the labour administrative bodies.

These challenges are being reflected in the dispute in an integrated hotel and casino in Phnom Penh.

In 2018, the Labour Rights Supported Union, representing 50 per cent of workers in this workplace, filed for the most representative status for collective bargaining. The union was stuck in a prolonged administrative process with the competent authority. Up to now, no certificate has been granted.

Since 2019, the union has been engaging with the management to demand better wages and working conditions. Trade union leaders and their members have been subjected to threats, intimidations, harassments and interference of all forms from the employer after the union unleashed a living wage campaign at the workplace.

The trade union president was interrogated by police officers in the meetings forcibly with the management. She was later suspended from work. The trade union leader was threatened with full-scale surveillance of their conduct, activities and conversations.

In September, the authority proceeded to forward the dispute to the Arbitration Council excluding the suspension of the union leader, despite the petition of 3,800 workers to the authority for the labour application on their leader's reinstatement and request for collective bargaining.

The Ministry maintained a suspension as an individual case not in forwarding the remedies pertained to unfair labour practices under the law.

Although the Cambodian Labour Law and the Trade Union Law contain clear provisions on the right to collective bargaining, collective labour disputes and remedies in cases of violations, the labour administrative authorities could exert control over the process with administrative obstructions and delays.

Without a legal status to bargain, the union does not have the institutional and legal status to negotiate workplace safety measures under the pandemic or the redundancy plan involving 1,329 workers.

I end my speech by urging the Government to ensure the enforcement of the Trade Union Law with all industrial relations parties for effective application of the Convention in Cambodia.

Worker member, International Transport Workers' Federation (ITF)
(Mr SUBASINGHE) – I speak on behalf of the ITF and the Confédération française démocratique du travail (la CFDT).

In this Committee's discussion of Cambodia's compliance with the Convention in 2017, we raised serious concerns about Cambodia's largest airport operator, a French multinational, which operates three major airports in the country – in Siem Reap, Phnom Penh and Sihanoukville. In 2017, we were concerned with unilateral amendments to the collective agreement and anti-union discrimination, among other things.

Sadly, today we have to report that the French airport operator has been significantly undermining the ITF-affiliated Cambodian Transport Workers' Federation's (CTWF) representativeness, avoiding good faith bargaining, delaying a fair collective agreement, and engaging in further anti-union discrimination.

In January 2019, the CTWF gained majority representative status (MRS) at Siem Reap and sought to commence bargaining. This was rejected by the company on the grounds of wanting to combine bargaining with Phnom Penh. In March 2019, when the CTWF achieved MRS at Phnom Penh, the company then pushed bargaining forward again to when all three airports could bargain together.

More recently, through the pandemic, the company has dismissed over 100 workers and initiated restructuring without engaging the union. The dismissals disproportionately target trade-union members and are in clear violation of the principles of freedom of association. The airport authority also continues to offer redundancy packages that are below the legal minimum.

While the company, as a result of repeated Arbitration Council decisions, had finally commenced bargaining with the union, this has now been delayed again with very little progress made. If redundancy dismissals continue to target union members, this would threaten CTWF's representative status and their MRS certificate.

A corporate restructuring should not threaten unionized workers and their organizations. Dismissals disproportionately targeting union members not only threaten the CTWF's ability to represent its members, it also creates a climate of fear that is not conducive to freedom of association. The delays in concluding a collective agreement also demonstrate failures by the Government to guarantee the right to meaningful collective bargaining.

Further, the French multinational has also failed in its responsibility under the ILO MNE Declaration and its obligations under the French Duty of Vigilance of Law to conduct human rights due diligence in its supply chains and to address adverse impacts. Freedom of association and collective bargaining are fundamental rights covered under all business and human rights instruments and the French Duty of Vigilance Law. The airport operator must reinstate dismissed workers and recommence collective bargaining with a view to concluding an agreement without delay. Freedom of association and collective bargaining cannot be a blind spot in human rights due diligence.

Membre travailleur, Burkina Faso (M. BAZIE) – Le Cambodge a ratifié la convention en 1999.

La Commission de l'application des normes est intervenue depuis 2016 sur les manquements en lien avec sa mise en œuvre.

En 2019, le Cambodge a encore été interpellé sur des allégations de répression violente de grèves par des criminels spécialement engagés à cette fin et de détention de dirigeants syndicaux qui ont organisé des actions de grèves dans le secteur de l'habillement.

Sur des cas de meurtres de syndicalistes, la commission a recommandé de procéder à des enquêtes complètes et indépendantes sur les meurtres des dirigeants syndicaux dont Chea Vichea et Ros Sovannereth, et puis Hy Vuthy en 2007.

Faut-il avoir peur ou honte de dire que l'OIT de nos jours va très mal dans ses fondements? D'abord, même lorsqu'il n'y a eu aucun effort. Je crains que ce soit cette négligence à analyser les interpellations sur les risques du réchauffement climatique, d'une part, qui ait conduit à des apparitions de micro-organismes, tels que le COVID-19, mettant en péril presque toute l'humanité.

Government representative (Ms SOVANN) – My delegation has listened to all speakers and delegates and takes note of their interventions. Constructive comments and views voiced at the Committee will be brought back to Cambodia for due consideration with a view to ensure a conducive environment for the exercise of the freedom of association.

My delegation would like to reassure that Cambodia is committed to honour the Convention. Cambodia has always worked closely with social partners to promote the exercise of the freedom of association and to maintain harmonious industrial relations with technical support from the ILO. My delegation would like to reassure that Cambodia will continue to work closely with social partners as to review on the Law on Trade Unions and any other related legal instrument.

Regarding the right of minority unions to represent their members in labour disputes, we would like to highlight that, under amended article 59 of the Law on Trade Unions (LTU), the minority unions can represent their members in individual and collective labour disputes, not arising out of the collective bargaining agreement implementation. In this regard, minority worker unions or representatives of workers in case of no worker union have rights to represent members or workers in collective labour disputes in all dispute settlement procedures, including the conciliation at the Ministry of Labour and Vocational Training and the Arbitration Council. In addition, the amendment was made by adding point (i): “representing in good faith its members in collective labour dispute settlement not arising out of an execution of the collective bargaining agreement” in the amended article 59 of the LTU. The amendment aims at further clarifying the misinterpretation that minority union does not have the right to represent their members in collective labour dispute.

As of the effect of the Amendment Law on Trade Unions, until 31 March 2021, the Ministry of Labour and Vocational Training forwarded 432 collective labour disputes to the Arbitration Council for settlement, of which: the disputes involving the most representative status consists of 30 cases; the disputes with minority worker unions as a representative consists of 339 cases; and the disputes with workers as representatives consists of 63 cases.

Following the adoption of the Law on Amendment to the Law on Trade Unions in 2020, the Ministry of Labour and Vocational Training has not received any complaint regarding this matter. The Ministry of Labour and Vocational Training will continue working on promoting the understanding of the new legislation and strengthening its enforcement.

Although it is not within the scope of today's discussion, my delegation would like to address to the allegation as to the Law on State of Emergency. My delegation would like to remind that it is not exceptional for Cambodia to have the Law on State of Emergency. In fact, the same kind of law have been strictly implemented in many countries while Cambodia has still not even enforced it since its adoption. It is unfair and a double standard to state that Cambodia does not respect the human rights by just having the Law on State of Emergency while the same law has long been established and strictly enforced in other countries, but has never received any complaint. Despite the fact that COVID-19 has thrown the world into uncharted water, Cambodia has never declared the state of emergency.

Despite this challenging and unprecedented time, Cambodia continues its strenuous effort to protect and promote freedom of association as enshrined in the Convention.

My delegation would like to reiterate that individuals are prosecuted or convicted by judicial authority not because of who they are, but because of offences they have committed. In any circumstances, legitimate union rights should not be construed as a shield of law-breaking which denigrates the rule of law and undermines law-abiding citizens. The international labour standards do not provide any privilege to impunity to trade unionist.

My delegation would like to reassure that Cambodia will continue working with relevant stakeholders and provide parties concerned with legal assistance to conclude their pending cases, especially to the criminal cases. However, it should also be highlighted that the executive, legislative, and judicial bodies are independent from each other, as guaranteed by the Constitution of the Kingdom of Cambodia, therefore the Government plays no role in the judicial proceeding.

My delegation would like to express our sincere gratitude to the Committee for its observations and to all ASEAN Member States, representatives of workers' and employers' organizations and others for their constructive intervention and support extended to Cambodia in this regard.

Employer members – I would like to thank the Government representative for the very detailed submissions that she presented to the Committee today and I would also like to thank all of the speakers that contributed to this discussion.

I would, though, at this moment, also reiterate the necessity for speakers to focus on the discussion of the elements properly before the CAS in this case. In the Employers' view, it is not useful, nor proper, to have discussions that fall outside of the scope of the proper consideration in this case.

The Employers took note of both the written and oral information provided by the Government representative and, as I mentioned, the rich discussion that followed. We

note, at the outset, that progress has been achieved in bringing certain aspects of the law into compliance with the Convention, and we appreciate the Government's efforts and work in this regard.

We do also note that a number of important issues still remain outstanding and must be addressed. Therefore, the Employers' group requests the Government to continue to identify appropriate legal measures in consultation with the social partners, to ensure that civil servants not covered by the LTU do have freedom of association rights, as required by the Convention.

The Employers also request the Government to repeal the literacy requirements in sections 20, 21 and 38 of the LTU to allow full participation. The Employers also request the Government to repeal paragraph 2 of section 28 of the LTU on the automatic dissolution of workers' organizations in the case of a closure of an enterprise or an establishment; and the Employers request the Government to repeal section 29 of the LTU on the dissolution of employers and workers' organizations initiated by members.

We therefore believe that these are some of the areas in which additional work can be done by the Government and continued cooperation of the Government with the social partners and with technical assistance from the ILO, as required.

We also note that in order to have compliance with the Convention in both law and practice, it is necessary to recall that freedom of association can only be exercised in an environment free from violence and intimidation and we therefore call upon the Government to continue the training of police officers in handling industrial conflict and protest action.

We also encourage the Government to continue to discuss with social partners the possibility of allowing information of employers' and workers' organizations by sector or profession and the Employers' group continues to encourage the Government in its

endeavours to make the Arbitration Council an effective and sustainable institution in handling labour disputes.

We believe that much has been achieved in respect of Cambodia's efforts to come into compliance with the Convention, both in law and practice, and while work remains to be done, we are very much encouraged by these efforts and wish to have that noted in the record. The Employers' group also requests the Government to continue to provide information on the measures it is taking in respect of all of these efforts.

Worker members – We thank the Government for their comments and we thank all the other interventions. The employers of Cambodia have indicated that several elements that we have raised should not be discussed here. We would like to refer here to the Conference rules which set out the mandate of our Committee and which provide, in Article 7(a) that our Committee shall examine the measures taken by Members to give effect to the provisions of Conventions to which they are party.

We must state, in particular, that everything we have said here today is within the scope of the Convention. The scope of the comments in the report of the Experts and the rules governing our discussion here in the Committee on the Application of Standards.

As you have heard from many of the speakers today, the Government of Cambodia continues to engage in serious violations of the right to freedom of association in law and in practice. This is despite frequent supervision by the Committee of Experts, the Committee on Freedom of Association and this Committee. Indeed, despite ILO missions, road maps and technical cooperation, we still do not seem to be making progress. Even the legal reforms which the Government promulgated in late 2019 have not made much of a difference for workers and unions, and indeed many obstacles still remain. It is abundantly clear that the Law on Trade Unions was meant to limit the rights

of unions to effectively represent their members' interests. This is worsened by emergency laws with no expiration, and which we can expect to remain on the books long after the pandemic has receded.

But let me come back to the matter of anti-union violence, which I referenced in my opening remarks. Violence, including murder, will never be tolerated. We, in the Workers' group, will never forget about our fallen friends and will keep raising their cases until there is justice. It has been 17 years since Chea Vichea and Ros Sovannareth were murdered and 14 years since Hy Vuthy was murdered. There is no excuse for these cases to remain unsolved with the material and intellectual authors of these crimes still free. We share the Committee of Experts' deep concern with the lack of concrete results. I strongly urge the Government to end the impunity and hold all those responsible accountable.

Also intolerable is police violence towards workers and trade unionists. This is not simply an issue of training, though we welcome it so that officers at least know the rights of protestors and act in accordance with international law and best practices. However, in our view, the violence perpetrated by police reflect the low value that the Government places on the labour of workers and the role of trade unions. Until the Government makes clear that trade unions are an important part of society and their efforts to build mature industrial relations is to be valued instead of repressed, then we cannot be surprised when police continue to carry out violence against them. Until this changes, I worry handbooks will simply be ignored.

Finally, I note that after seven years, several trade unionists still have criminal or civil charges pending against them for their participation in demonstrations in early 2014. Let us not lose sight as to why workers were protesting. Workers were protesting for a liveable minimum wage, which still today remains too low. In return, military police

opened fire on protesting garment workers on Veng Sreng Street on 3 January, killing and wounding several. There is no reason that any worker should have been charged in the first place in relation to the peaceful exercise of the right to assemble and associate. That some cases remain pending, keeping these workers under the cloud of potential prison or heavy fines, is simply unacceptable.

The Workers' group insists that the Government of Cambodia take meaningful action with regard to freedom of association. As such, we recommend the following conclusions:

- refrain from the arbitrary arrest, detention and prosecution of trade unionists for undertaking legitimate trade union activity and drop all charges against those who have been so criminalized;
- provide information with regard to the investigations into the murders, and violence, perpetrated against trade union leaders to the Committee of Experts, and ensure that the perpetrators and instigators of the crimes are brought to justice;
- ensure that acts of anti-union discrimination are swiftly investigated and that, if verified, adequate remedies and dissuasive sanctions are applied;
- with the help of ILO technical assistance, develop guidelines, a code of practice or a handbook on the policing and handling of industrial and protest actions;
- amend the Law on Trade Unions, in consultation with the social partners, to ensure compliance with the Convention;
- ensure that workers are able to register trade unions through a simple, objective and transparent process;

- ensure that teachers, civil servants, domestic workers and workers in the informal economy are able to form and join trade unions in law and in practice consistent with the Convention;
- ensure that all trade unions have the right to represent their members in collective disputes in grievance proceedings at the enterprise level and the ministerial level as well as before the Arbitration Council;
- ensure that binding Arbitration Council decisions are effectively enforced.

Présidente – Merci à tous les orateurs qui vous ont précédée pour les informations qu'ils ont bien voulu fournir à la commission. Le projet de conclusions concernant ce cas aura lieu lors de la dernière séance de la commission, le vendredi 18 juin 2021.