



# ▶ Record of proceedings

3C

International Labour Conference – 109th Session, 2021  
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## Reports on credentials

### Third report of the Credentials Committee

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## Composition of the Conference

1. Since 4 June 2021, when the Credentials Committee adopted its first report (ILC.109/Record No. 3A), there have been changes in the composition of the International Labour Conference. At present, a total of **181** of the 187 Member States of the International Labour Organization (ILO) have accredited a delegation. The Committee notes that this is the highest number of Member States that have ever participated in a session of the Conference, which is no doubt mainly due its virtual format.
2. To date, there are 4,467 persons accredited to the Conference (as compared to 7,661 in 2019, 6,438 in 2018, 6,092 in 2017 and 5,982 in 2016). The difference in the number of accredited persons in comparison with previous years is largely due to the fact that, because of the virtual format of this session, categories of participants without active participation rights in the Conference, also referred to as “persons without an institutional role at the Conference”, were not to be included in the credentials of the delegations. They were nevertheless able to follow the discussions as members of the general public.<sup>1</sup> The attached list contains more details on the number of delegates and advisers accredited.
3. The Committee wishes to indicate that 170 ministers, vice-ministers, and deputy ministers have been accredited to the Conference and that the overall proportion of women delegates and advisers remains at 38.3 per cent.

## Monitoring

4. The Committee was seized of three monitoring cases, pursuant to article 26 *quater* of the Standing Orders of the International Labour Conference, by virtue of a decision of the Conference taken at its 108th Session (2019).

## Djibouti

5. At its 108th Session (2019), the International Labour Conference decided, by virtue of articles 26 *quater* and 26 *bis*(7) of the Conference Standing Orders, and upon the unanimous recommendation of the Credentials Committee, to renew the monitoring of the situation raised in an objection concerning the nomination of the Workers’ delegation,<sup>2</sup> and consequently, it requested the Government to submit for the next session of the Conference, at the same time that it submitted its credentials for its delegation, a detailed report substantiated with relevant documentation:
  - (a) concerning the concrete measures undertaken with respect to the establishment of criteria for the independent representation of workers in the country, in conformity with freedom of association principles; and
  - (b) on the procedure followed for the nomination of the Workers’ delegate and advisers, in consultation with representative workers’ organizations, specifying the organizations consulted and according to which criteria, their numerical importance, the date and place of these consultations, the names of the individuals nominated by the organizations during these consultations and the positions they hold within those organizations. Where more than one organization claims the

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<sup>1</sup> ILC109/D.1.

<sup>2</sup> *Provisional Record* No. 3C, 108th Session, 2019, para. 10.

same name, the report should also specify which organization was consulted and for which reasons.

6. The credentials of Djibouti for the current session of the Conference were submitted through the online accreditation system on 20 May 2021. Following a reminder by the Office, the Government submitted on 1 June 2021 a brief report to the secretariat of the Committee.
7. In the report, the Government reiterated information provided previously regarding the existence of four main representative organizations: the Union Générale des Travailleurs Djiboutiens (UGTD), the Union Djiboutienne du Travail (UDT), the Confédération Nationale des Employeurs de Djibouti (CNED) and the Fédération des Entreprises de Djibouti (FED). The Government indicated that the CNED and the FED had merged and that only the CNED was authorized to represent employers in all national and international bodies. The Government drew the attention of the Committee to the measures it had taken to put a partnership in place with the social partners and an inclusive social dialogue to further social justice and decent work, and with a view to regularizing the situations of trade unions by renewing their leadership through free and transparent elections. Turning to the workers, the Government indicated that it had not invited the UDT due to the absence of trade union elections. It attached in this respect a letter dated 13 January 2020 and addressed to the President of the UDT in which it reminded the UDT and its partners, including its *"intersyndicale"*, that the representativeness of organizations was determined by trade union elections. The mandate of the President and other officers having expired as no professional elections had been held since 2002, the UDT would not be considered as a social partner pending new elections. Regarding the UGTD, the Government indicated that it had planned to hold elections in April 2021 with observers from the ILO, but that these elections had been postponed in light of the COVID-19 pandemic.
8. The Government stated that two organizations – the UGTD and the CNED – had been consulted before the credentials of the delegation of Djibouti had been submitted. Formal invitations to designate their representatives within the delegation were sent to the two employers' and workers' organizations by letters dated 9 May 2021. In a communication dated 10 May 2021, the UGTD designated its Secretary-General, Mr Said Yonis Waberi as Workers' titular delegate, and Messrs Ali Houmed Asso and Aden Ahmed Miguil as Workers' advisers.
9. As for concrete measures undertaken with respect to the establishment of criteria for the independent representation of workers in the country, the Government indicated that it had received, following its request for technical assistance, technical comments from the ILO concerning a draft decree. This decree, which would be defining the various forms of trade union organizations and criteria to determine their representativeness, would be submitted imminently to the National Council for Labour, Employment and Social Security (CONTESS) for tripartite consultation. In addition, in February 2021 a declaration outlining the need for reinforcement of social dialogue had been adopted under the auspices of a work forum organized with tripartite stakeholders, the UN system and civil society.
10. The Government concluded its report by wishing the normalization of its relations with the ILO, notably on the question of freedom of association as the lack of cooperation was penalizing the world of work in Djibouti in terms of knowledge and training on international labour standards. In addition, it requested the ILO's technical assistance in implementing the necessary reforms concerning the question of social dialogue. The Government noted that such technical assistance, to be carried out in coordination with

the International Trade Union Confederation (ITUC), the World Federation of Trade Unions and the Arab Labour Organization, would be made available to all tripartite stakeholders of Djibouti, without exclusion.

11. *The Committee regrets that the detailed report requested by the Conference was once again submitted 12 days after the Government had submitted its credentials. It further regrets that the Government's report does not provide satisfactory replies to some of the questions raised by the Conference. As in previous years, the Government does not address the allegations repeated every year by the objecting organizations concerning the duplication ("cloning") of the UDT and UGTD and usurpation of their names, to which the Committee has given credence in the past.*
12. *The Committee notes that, notwithstanding the current world context marked by the COVID-19 pandemic, in the past two years, some progress appears to have been made, with the support of the ILO, and that action was envisaged with regard to the reform of the national legislation on the representativeness of workers' and employers' organizations. However, the Committee recalls its expectation expressed five years ago, regarding the same draft texts, that "the Government [would] quickly establish objective, transparent and verifiable criteria, within a framework that fully respects the capacity to act of the genuine workers' organizations in Djibouti, in full independence from the Government, in accordance with the provisions of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and Right to Organise and Collective Bargaining Convention, 1949 (No. 98), ratified by Djibouti".<sup>3</sup>*
13. *The Committee notes that the Government reiterated its request for ILO technical assistance with a view to implementing the necessary reforms concerning the question of social dialogue. Therefore, the Committee once again calls upon the Office to give due consideration to the Government's request for technical assistance with a view to facilitating the establishment of an institutional framework for settling the issue of representativeness of workers' organizations.*
14. *Taking into account also the examination of the objection (see paragraphs 36 to 41 below), the Committee considers that the situation justifies the renewal of the monitoring of the situation under terms similar to those decided by the Conference at its last session. Consequently, by virtue of articles 26 quater and 26 bis(7) of the Conference Standing Orders, the Committee unanimously proposes that the Conference request the Government of Djibouti to submit for the next session of the Conference, at the same time that it submits its credentials for the delegation of Djibouti, a detailed report, substantiated with relevant information:*
  - (a) *concerning the concrete measures undertaken with respect to the establishment of criteria for the independent representation of workers in the country, in conformity with freedom of association principles; and*
  - (b) *on the procedure followed for the nomination of the Workers' delegate and advisers, in consultation with representative workers' organizations, specifying the organizations consulted and according to which criteria, their numerical importance, the date and place of these consultations, the names of the individuals nominated by the organizations during these consultations and the positions they hold within those organizations. Where more than one organization claim the same name, the report should also specify which organization was consulted and for which reasons.*

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<sup>3</sup> Provisional Record No. 6C, 105th Session, 2016, para. 11.

15. *The Committee recalls that it is within its purview to invite the Government to appear before it to provide clarifications and it cautions that it will do so at the next session of the Conference should the report submitted by the Government continue to leave important questions unanswered.*

## Mauritania

16. At its 108th Session (2019), the International Labour Conference decided, by virtue of articles 26 *quater* and 26 *bis*(7) of the Conference Standing Orders, to renew the monitoring approved at its 107th Session (2018), under similar terms.<sup>4</sup> Consequently, it requested the Government of Mauritania to submit for the next session of the Conference, at the same time that it submits its credentials for its delegation, a detailed report, substantiated with relevant information on:
- (a) the progress made in relation to the road map pertaining to the determination of the representativeness of the workers' organizations;
  - (b) the trade union situation in the country, including the name(s) of the representative workers' organizations, their coverage, their numerical membership, and other objective and verifiable criteria; and
  - (c) the procedure utilized to nominate the Workers' delegation, specifically, the organizations that have been consulted on the matter and according to which criteria; the date of these consultations, and the names and titles of the representatives consulted; information as to the measures taken by the Government to facilitate an agreement among the representative workers' organizations; and, the names of the individuals nominated by the organizations during these consultations.
17. According to the credentials deposited through the online accreditation system on 12 May 2021, the Workers' delegate for this year's Conference was the Secretary-General of the Union des Travailleurs de Mauritanie, accompanied by one substitute delegate (the Secretary-General of the Union Syndicale des Travailleurs de Mauritanie), and five advisers (the respective Secretary-Generals of the Confédération Générale des Travailleurs de Mauritanie, of the Confédération Libre des Travailleurs de Mauritanie, of the Confédération Nationale des Travailleurs de Mauritanie, of the Union Générale du Travail et de la Santé en Mauritanie and of the Union de la Génération Nouvelle des Travailleurs de Mauritanie).
18. In its report submitted on 1 June 2021 in response to the decision taken by the Conference at its last session and, in response to the Office's reminder, the Government recalled that freedom of association was respected in Mauritania, which had led to proliferation of trade unions. The Government stressed that this situation was creating difficulties in designating the representatives of the workers at the Conference. With a view to resolving the situation, the Government had made a priority of the organization of elections in its action plan for this year and had requested the assistance of the Office. The Government indicated that the COVID-19 pandemic had delayed the elections. However, with the relative improvement of the situation, the Government expressed its determination to hold elections as soon as possible. The newly created national social dialogue council would be entrusted with supervising the trade union elections. In the meantime, the Government had consulted the trade unions to designate their

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<sup>4</sup> *Provisional Record No. 3C, 108th Session, 2019, para 16.*

representatives to this session of the Conference but no consensus had been reached. Therefore, a system of rotation had been adopted to ensure that workers would be represented at the Conference.

19. *The Committee notes the information provided by the Government on the situation prevailing in Mauritania. It regrets that the process to determine the representativeness of the workers' organizations has still not been completed, despite the indications provided by the Government in 2018 that the process would be completed at the latest by the first trimester of 2019, that is, a year before the pandemic struck. The Committee also regrets that the explanations provided did not show any other evolution. It notes that the national social dialogue council, which is now presented by the Government as an innovation, was in fact already mentioned as an existing body in 2019.*
20. *The Committee further notes that for this year's Conference, in the absence of agreement among the workers' organizations regarding their participation, a system of rotation was adopted. As stated by the Committee numerous times, a system of rotation can only serve as a method for nominating the Workers' delegation if the most representative organizations in the country have so decided in agreement among themselves. The Committee notes that it is not clear from the Government's report to what extent the most representative workers' organizations have agreed to the rotation system, but it also notes that the Committee has received no objection this year concerning the nomination of the Workers' delegation of Mauritania.*
21. *In view of the remaining doubts and of the fact that the Government itself seems to consider the rotation system only as a temporary solution, the Committee urges the Government to follow through its commitment to organize elections at the soonest with a view to determine the representativeness of trade unions and expects that this process will be completed in time, so as to permit a nomination process to the next session of the Conference that is in full compliance with article 3(5) of the ILO Constitution.*
22. *In these circumstances, the Committee considers that the situation justifies the renewal of the monitoring under analogous terms to those decided by the Conference at its last two sessions. Consequently, by virtue of articles 26 quater and 26 bis(7) of the Conference Standing Orders, the Committee unanimously proposes that the Conference request the Government of Mauritania to submit for the next session of the Conference, at the same time that it submits its credentials for its delegation, a detailed report, substantiated with relevant information:*
  - (a) *the progress made in relation to the organization of elections with a view to determine the representativeness of the workers' organizations;*
  - (b) *the trade union situation in the country, including the name(s) of the representative workers' organizations, their coverage, their numerical membership, and other objective and verifiable criteria; and*
  - (c) *the procedure utilized to nominate the Workers' delegation, specifically, the organizations that have been consulted on the matter and according to which criteria; the date of the consultations, and the names and titles of the representatives consulted; information as to the measures taken by the Government to facilitate an agreement among the representative workers' organizations; and the names of the individuals nominated by the organizations during these consultations.*

### **Bolivarian Republic of Venezuela**

23. *At its 108th Session (2019), the International Labour Conference decided, by virtue of articles 26 quater and 26 bis(7) of the Conference Standing Orders, and upon the*

unanimous recommendation of the Credentials Committee, to renew, for the third consecutive year, the monitoring measures established following an objection concerning the nomination of the Workers' delegation.<sup>5</sup> Consequently, it requested the Government to submit for the next session of the Conference, at the same time that it submitted its credentials for its delegation, a detailed report substantiated with relevant documentation on:

- (a) objective evidence regarding the representativeness of all workers' organizations in the country; and
  - (b) the procedure followed to attempt to reach an agreement among the most representative workers' organizations and, if such an agreement was not reached, the objective and verifiable criteria established for the nomination of the Workers' delegation.
- 24.** In the report, which was submitted on 1 June 2021 in response to the Office's reminder, the Government referred to the affiliation data available from the National Trade Union Registry (NTUR) pertaining to six workers' organizations. The Government indicated that the Central Bolivariana Socialista de Trabajadores y Trabajadoras de la Ciudad, el Campo y la Pesca (CBST-CCP) remained the most representative organization, with 29 affiliate organizations and 1,221,987 workers, according to the latest update on 30 April 2019. It was followed by the Alianza Sindical Independiente (ASI) with 12 affiliate organizations and 77,698 workers, last updated on 16 April 2021; the Confederación de Sindicatos Autónomos de Venezuela (CODESA) with 10 affiliate organizations and 1,829 workers, last updated on 19 May 2006; the Confederación de Trabajadores de Venezuela (CTV) with 25 affiliate organizations and 574 workers, last updated on 31 March 2017; the Confederación General de Trabajadores (CGT) with 6 affiliate organizations and 37 workers, last updated on 29 April 2005; and the Unión Nacional de Trabajadores de Venezuela (UNETE) with one affiliate organization with 7 workers, last updated on 5 April 2003.
- 25.** As in previous years, the Government conceded that the data contained in the NTUR was in many cases not up-to-date. In this regard, the Government stated again that most organizations did not comply with article 388 of the Organic Labour Law, which established that each workers' organization must submit within the first three months of each calendar year a completed list of its workers affiliates and information related to its internal administration. The Government pointed out that as from 2020, considering the situation due to the COVID-19 pandemic, a circular established the extension of the annual registration and updating period for trade union organizations, without any time limit, for the duration of the pandemic and beyond for an additional 60 days. However, some organizations had not carried out the update.
- 26.** In its report, the Government also detailed the different initiatives undertaken for the purposes of designating the delegation to the present session of the Conference.
- 27.** The Government submitted copies of its invitation dated 6 May 2021 to coordination and dialogue meetings for the designation of the delegation to this session of the Conference, sent to the six workers' organizations mentioned above, as well as to the Federación de Cámaras y Asociaciones de Comercio y de Producción de Venezuela (FEDECÁMARAS) and the Federación de Artesanados, Micros, Pequeñas y Medianas Industrias y Empresas de Venezuela (FEDEINDUSTRIA).

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<sup>5</sup> *Provisional Record No. 3C, 108th Session, 2019, para. 20.*

28. With regard to the workers' organizations, the Government indicated that despite three meetings with representatives of the CBST-CCP, ASI, UNETE and CGT, no consensus was reached on the composition of the delegation. The Government indicated that it had accredited the workers' representatives on the basis of written proposals received on 13 and 14 May 2021 from the CBST-CCP, ASI, CODESA, CTV, CGT and UNETE, mindful of the trade union reality of the country. In this regard, the Government pointed out that the objective and verifiable criteria used to determine the representativeness of the workers' organizations included a review of the number of collective bargaining negotiations and the number of collective agreements signed. With respect to the organizations that promoted such agreements, it was found that the CBST-CCP had achieved the highest number of these.
29. With regard to the employers' organizations, the Government indicated that at the meeting with FEDECÁMARAS and FEDEINDUSTRIA held on 11 May 2021, a consensus was reached among these organizations, which was subsequently reflected in the composition of the Employers' delegation submitted on 13 May 2021.
30. The Government recalled that it had continuously and repeatedly requested the Office's technical assistance with the determination of representativeness of employers' and workers' organizations, as it could help to improve the criteria and methods used not only for the designation of tripartite delegations to the ILO meetings, but also to contribute to the improvement of internal social dialogue in the country. The Government submitted copies of its requests, noting that the most recent was dated 14 May 2021.
31. Finally, the Government indicated that it had modified the country's credentials following a communication from Mr José Elías Torres, Secretary-General of the CTV, who had resigned his appointment as adviser to the Workers' delegate.
32. *The Committee notes that while the Government took steps to promote agreement among the workers' organizations on the designation of the Workers' delegation to the present session of the Conference, once again, the composition of the Workers' delegation had not been agreed upon by all the workers' organizations, but had been unilaterally designated by the Government. The Committee recalls that, in the absence of agreement among the organizations, in order to ensure that the designation of the Workers' delegation is carried out in accordance with article 3(5) of the ILO Constitution, it is essential that the Government establish and apply objective and verifiable criteria and provide adequate means to determine objectively which of the organizations concerned are the most representative.*
33. *As regards the ILO technical assistance with a view to making progress in the establishment of objective and verifiable criteria, the Committee refers to the conclusions and recommendations of the Commission of Inquiry appointed under article 26 of the ILO Constitution to examine the observance by the Government of the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No.144), where it is recalled that, despite the fact that the Government affirmed that it has taken into account the recommendations of the Credentials Committees of the ILO and has not refused to receive ILO assistance, the Government has never availed itself of such assistance, despite successive Credentials Committees insisting on the need to do so and repeatedly regretting that the Government has not given effect to their recommendations. Accordingly, the Commission of Inquiry recommended inter alia the establishment, with ILO assistance, of criteria that are objective, verifiable and fully in accordance with freedom of association to determine the representativeness of both employers' and workers' organizations.*

34. *In light of the foregoing, the Committee considers that it is necessary to renew the monitoring measures. Consequently, it unanimously recommends to the Conference that it request the Government of the Bolivarian Republic of Venezuela, by virtue of articles 26 quater and 26 bis(7) of the Conference Standing Orders, to submit for the next session of the Conference, at the same time that it submits its credentials for its delegation, a detailed report substantiated with relevant documentation on:*
- (a) *objective evidence regarding the representativeness of all workers' organizations in the country; and*
  - (b) *the procedure followed to attempt to reach an agreement among the most representative workers' organizations and, if such an agreement was not reached, the objective and verifiable criteria established for the nomination of the Workers' delegation.*

## Objections

35. The Committee has received six objections. These relate both to the credentials of delegates and their advisers who were accredited to the Conference, as reflected in the revised provisional list of delegations published on 3 June 2021 and in the second revised provisional list of delegations of 9 June 2021, as well as to incomplete delegations. The Committee has completed the examination of all objections, which are listed below.

### Objection concerning the nomination of the Workers' delegation of Djibouti

36. The Committee received an objection concerning the nomination of the Workers' delegation of Djibouti presented by Mr Adan Mohamed Abdou, Secretary-General of the UDT, and Mr Kamil Diraneh Hared, Secretary-General of the UGTD. The authors of the objection alleged that the Government had, once again, nominated representatives from fake unions to participate in the present session of the Conference and, which continued to usurp the name of the UDT and of the UGTD. They argued that this situation demonstrated the Government's continued ignorance of the Committee's repeated conclusions. They also once again referred to a commitment that had yet to be respected, made by the Ministry of Employment, Insertion and Vocational Training to the Committee and to the Office concerning the respect of trade union rights, the reintegration of trade unionists and the payment of their wage arrears. They requested the Committee to take an effective and definitive decision with respect to the Workers' delegation of Djibouti.
37. Attached to the objection was a letter from the ITUC dated 31 March 2021 addressed to the authors of the objection, in which the ITUC expressed support for independent trade unions and its unwillingness to cooperate with non-independent trade unions that are controlled by governments or other groups. It made reference to procedures that were ongoing concerning Djibouti in the ILO supervisory bodies and reaffirmed that the ITUC would support the UDT and UGTD in this context. The ITUC also requested more information on the current situation of trade unions in Djibouti.
38. In a written communication addressed to the Committee at its request, the Government noted that the objection contained an incorrect reference to the title of the Minister of Labour, which was evidence that the signatories were out of touch with the social reality of Djibouti. The Government referred the Committee to its report, as regards the existence and numerical importance of organizations of workers and employers and reiterated that there was no *intersyndicale* UDT-UGTD and that the authors of the objection possessed no legitimate union mandate. In order to close definitively this

issue, the Minister had accepted the terms of an evaluation mission by the ILO and international observers. Finally, the Government indicated that an inclusive approach had been launched with all stakeholders in Djibouti in order to restructure and revise the trade union situation in Djibouti. The Government referred in this respect to a declaration outlining the need for reinforcement of social dialogue had been adopted in February 2021 under the auspices of a work forum organized with tripartite stakeholders, the UN system and civil society. Attached to the communication from the Government was a document relating to an urgent and priority three-year project relating to the reinforcement of social dialogue. One of the activities planned was the regularization of the situations of trade unions through the renewal of their leadership, in accordance with their respective statutes.

39. *The Committee, once again, observes with serious concern that, notwithstanding its repeated and consistent conclusions and the monitoring measures renewed by the Conference at its previous sessions, an objection has been lodged against the Government of Djibouti by the UDT and the UGTD concerning the nomination of the Workers' delegation for an 18th consecutive session. The Committee remains extremely concerned by the confusion that continues to reign regarding the situation of the Djiboutian trade union movement and, particularly, by the phenomenon of "clone unions" that continues to persist, although this year only the UGTD was included in the delegation.*
40. *The Committee considers that the lack of progress in this case is due, among others, to the continued failure on both sides to provide the Committee with sufficient relevant information and evidence to support their respective claims. As regards the objecting organizations, the Committee reiterates its regret that the objection merely repeats, every year, the same allegations without clarifying the facts of the case. It wishes to recall that it is in the interest of the objecting organizations to present specific allegations, supported by relevant documentation in relation with the mandate of the Committee.<sup>6</sup> As regards the Government's comments on the objection, the Committee regrets that the Government has, once again, not addressed the allegations repeated every year by the objecting organizations concerning the duplication ("cloning") of the UDT and UGTD and usurpation of their names, other than by stating flatly that the authors of the objection had no legitimate union mandate, without any explanation as to how, in particular, Mr Mohamed Abdou might have lost the leadership of the UDT, which he has been undoubtedly holding in the past.<sup>7</sup> As to the Government's affirmation that there existed no intersyndicale UDT-UGTD, the Committee notes that, in a letter dated 13 January 2020 attached to its report submitted under the monitoring decided by the Conference, the Government itself refers to an intersyndicale linked to the UDT.*
41. *Consequently, the Committee once again expresses serious doubts as to the representative nature of the Workers' delegation to the present session of the Conference. The Committee notes that the Government stated having accepted the terms of technical assistance to be provided by the Office, and that relevant actions appear to be taken regarding the issue of trade union representativeness, and more generally social dialogue, in Djibouti. In this respect, the Committee once again calls upon the Government to facilitate concrete measures by the ILO, in a very near future. It trusts that such action will benefit from the full support of the Government and all the parties involved, and take due account of the observations and recommendations of the Credentials Committee as well as those of the ILO supervisory bodies. The Committee trusts that an assessment of the trade union movement will be made possible,*

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<sup>6</sup> Provisional Record No. 4D, 102nd Session, 2013, para. 44.

<sup>7</sup> Provisional Record No. 4C, 98th Session, 2009, para. 51

*in a climate of confidence and, in a framework that fully respects the capacity to act of the genuine workers' organizations in Djibouti, in total independence from the Government.*

### **Objection concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of Haiti**

42. The Committee received an objection presented by the ITUC concerning the nomination of an incomplete delegation on the Employers' and the Workers' side by the Government of Haiti. The ITUC submitted that the Government had not fulfilled its obligation under article 3, paragraph 1, of the ILO Constitution to accredit a complete delegation to the Conference. It requested the Committee to call upon the Government to provide explanations about this situation and that it recommend to the Government that it fulfil its constitutional obligations.
43. In a written communication dated 7 June 2021 addressed to the Committee, the Permanent Mission informed it that the ongoing political crisis in the country had created difficulties in the communication among the various sectors of national life and that a fuller reply was awaited from the capital.
44. *The Committee notes that by further communication dated 14 June 2021, the Government submitted the credentials of employers and workers. The objection has therefore become moot and requires no further action on its part. Nonetheless, the Committee regrets that the accreditation of the employers and workers has not been done in due time so as to allow their participation in the work of the Conference from the opening of the session, in the true spirit of tripartism.*
45. *The Committee calls upon the Government to abide by the time limit for the deposit of credentials at future sessions of the Conference.*

### **Objection concerning the failure to deposit credentials of a Workers' delegate by the Government of Slovenia**

46. The Committee received an objection presented by the ITUC concerning the nomination of an incomplete delegation on the Workers' side by the Government of Slovenia. The ITUC submitted that the Government had not fulfilled its obligation under article 3, paragraph 1, of the ILO Constitution to accredit a complete delegation to the Conference. It requested the Committee to call upon the Government to provide explanations about this situation and that it recommend to the Government that it fulfil its constitutional obligations.
47. In a written communication dated 7 June 2021 addressed to the Committee at its request, the Minister of Labour, Family, Social Affairs and Equal Opportunities, provided detailed explanations indicating that workers' organizations either failed to confirm their attendance to the Conference or informed the Government that they would not nominate their representatives. The Government further affirmed that it conducted the nomination process for this session of the Conference in accordance with the ILO Constitution and past practice. It also reiterated its firm and sincere commitment to social dialogue and the principles and values of the Organization. The Government provided a documented timeline of the consultation process engaged between January 2020 and June 2021 in accordance with the Rules on the Operation of the Economic and Social Council, which is solely responsible for the selection process. Finally, the Government indicated that it would immediately submit the credentials of the Workers' delegate and his/her adviser upon receipt of the names from the workers' most representative organizations.

48. *The Committee reminds Member States of their obligation under article 3 of the ILO Constitution to nominate tripartite delegations to the Conference and also the requirement under article 26 of the Standing Orders of the Conference to deposit the credentials of that tripartite delegation at least 15 days before the opening of the session of the Conference. While being fully aware that due to the exceptional circumstances under which this year's virtual Conference had to be convened, the deadline for submission of credentials had been reduced to one week before its opening (see paragraph 10 of the Special Arrangements, ILC.109/D.1), the Committee considers that the Government is ultimately responsible for ensuring that constitutional obligations are fully met and that a complete tripartite delegation is duly accredited to the Conference. The Committee recalls, in this respect, that in the absence of a duly nominated employer or worker delegate, the other non-governmental delegate cannot exercise their voting rights, which is a significant aspect of their participation rights.*
49. *While taking due note of the Government's explanations, the Committee is obliged to conclude that by not accrediting a Worker delegate, the Government has not met its constitutional obligations. The Committee notes that the accreditation of an incomplete delegation is all the more regrettable as this year's virtual format permits remote participation in the Conference.*
50. *The Committee trusts that the Government will make every effort to nominate a Worker's delegate very shortly, particularly in view of the extended nature of this year's session that runs until 11 December 2021.*

### Objection concerning the nomination of the Workers' delegation of Sudan

51. The Committee received an objection concerning the nomination of the Workers' delegation of Sudan presented by Mr Yousif Ali Abdelkarim, President of the Sudanese Workers' Trade Union Federation (SWTUF). The objection was supported by the International Confederation of Arab Trade Unions (ICATU) and the ITUC. The authors of the objection submitted that the Government had unilaterally nominated two representatives of the Khartoum University Teachers Trade Union, as Workers' delegate and substitute delegate without the agreement of the SWTUF, which was the most representative workers' organization in Sudan. Thus, the Government had failed to fulfil its obligations under article 3, paragraphs 1 and 5 of the ILO Constitution to nominate non-governmental delegates and advisers in agreement with the most representative workers' organizations.
52. The ITUC considered that the Khartoum University Teachers Trade Union was neither representative nor an independent workers' organization, but rather a sectoral organization that had pledged allegiance to the Government. The objection had to be seen in the larger context of ongoing violations of Conventions Nos 87 and 98 in the country. On 14 December 2019, the Sovereignty Council issued a decree dissolving all trade unions, employers' organizations and other professional associations although they were duly registered and legally operating under the laws of the country. The SWTUF offices were raided and its property and assets were seized. On 19 February 2021, several representatives of the SWTUF and other regional trade unions were unlawfully arrested and detained. In an additional communication, the ITUC informed the Committee that the public prosecutor of Khartoum had issued a warrant of arrest against Mr Yousif Ali Abdelkarim, who the SWTUF considered to be the legitimate Workers' delegate, and had arrested the SWTUF's treasurer.
53. In a written communication addressed to the Committee at its request, the Government denied that the SWTUF was the most representative workers' organization in Sudan. It submitted that the SWTUF had been established in 1992 by the former regime of the National Congress Party (NCP), establishing a trade union monopoly, which existed until

the Sudanese revolution in 2018–19. The SWTUF was entirely composed of members of the NCP and was acting as an executive arm of this party. As a result, after the revolution, more than 100 Sudanese trade unions had left the federation and therefore it was no longer representative. In this regard, the Government pointed to conclusions of the Credentials Committee from 1992, 1993 and 1994, which questioned the representativeness of Sudan's workers delegations comprised SWTUF representatives. It also cited Case No. 1508 of the Committee of Freedom of Association and ongoing observations of the Committee of Experts on the Application of Conventions and Recommendations since 1994, concerning a trade union monopoly and ongoing violations of the principles of freedom of association in Sudan. It recalled that it was the ITUC's predecessor, the International Confederation of Free Trade Unions (ICFTU), which had in 1992, 1993 and 1994 objected to the nomination of representatives of the SWTUF for Sudan's Workers' delegation, referring to the trade union monopoly and violations of freedom of association in the country.

54. The Khartoum University Teachers Trade Union had always been at the forefront of the democratic change in Sudan. It had thus been one of the first targets of the SWTUF in 1992, including through the killing of one of its members, which had been the subject of the 1992 conclusions in Case No. 1508 of the Committee of Freedom of Association. The nomination of the Workers' delegation from the Khartoum University Teachers Trade Union was based on objective and predetermined criteria, including its enjoyment of the trust of all trade unions in Sudan. For its selection, the Government had undertaken consultations with several regional and sectoral trade unions, which had left the SWTUF in 2019. In support, it produced numerous documents signed by several regional and sectoral trade unions, including the Independent Trade Union of Craftsmen of Khartoum, the Transport Trade Union and its affiliated regional trade unions in Blue Nile, Gezira and Sennar and the Khartoum University Teachers Trade Union, in which these unions declared their withdrawal from the SWTUF as well as the nomination of the representatives of the Khartoum University Teachers Trade Union for Sudan's Workers' delegation.
55. As regards the dissolution of the SWTUF in 2019, the Government submitted that it had been carried out by the competent authorities in accordance with the applicable laws and Sudan's new constitutional regime. The seizure of SWTUF's assets had been carried out on a precautionary basis, in accordance with legal procedures, and ordered by an independent public prosecutor.
56. *The Committee, aware that this case is set in the context of a major political transition in Sudan, notes that it involves the dissolution of the former monopoly trade union, the SWTUF, the seizure of its assets and the prosecution and detention of some of its leaders. While expressing concern at these facts, the Committee observes that this raises primarily questions of freedom of association, which are outside the Committee's mandate. It notes in this regard that the ITUC has lodged a complaint with the Committee on Freedom of Association on 3 February 2020 (Case No. 3376), which is currently pending before that Committee.*
57. *As regards the question before the Credentials Committee, namely whether the Workers' delegation of Sudan to this session of the Conference has been nominated in agreement with the most representative workers' organizations in the country, the Committee notes that, according to the objecting organizations, the SWTUF is the most representative workers' organization in Sudan. It also notes the Government's contention that, after more than 100 trade unions disaffiliated from it, the SWTUF is no longer representative. The Committee observes, however, that the Government did not give any indication as to what proportion of the overall affiliation to the SWTUF this figure represented, nor has it provided any figures*

*relating to the Khartoum University Teachers Trade Union and the trade unions supporting it, which would have permitted a comparison of the two organizations' relative strength in terms of affiliation or membership. To the extent the Government justifies the absence of consultation of the SWTUF with its dissolution according the applicable laws, the Committee recalls, on the one hand, that it is not competent to assess the compatibility of this dissolution with applicable standards and principles on freedom of association. On the other hand, according to the Committee's case law, as long as an organization still exists de facto, it may continue to be the most representative workers' organization and, in such case, has to be consulted in the nomination process in accordance with article 3, paragraph 5 of the ILO Constitution, which refers simply to the existence of – not to the legal existence of – an organization that should be consulted.*<sup>8</sup>

- 58.** *The Committee wishes to recall that, where there are more than one most representative Workers' organizations in a country, the Government has to establish, in agreement with the representative workers' organizations, and apply, a system of objective and verifiable criteria to determine the most representative workers' organizations for the purpose of the nomination of the Workers' delegation to the Conference. Based on the information provided by the Government, it does not appear to the Committee that the Government has applied such a system in this case, since the criteria the Government claims to have applied, namely the "enjoyment of confidence of social partners" in the organizations and their "impact and influence in issues of decent livelihoods", do not appear to be sufficiently objective and verifiable.*
- 59.** *In the light of these circumstances, the Committee has doubts that the Government complied with its obligation to consult the most representative workers' organizations in the country. The Committee trusts that the establishment of a system of objective and verifiable criteria, along with any progress that may still be required to ensure full respect for freedom of association in the country, will permit the nomination at the next session of the Conference of a Sudanese Workers' delegation in full compliance with article 3, paragraph 5 of the ILO Constitution.*

### **Objection concerning the failure to deposit credentials of a Workers' delegate by the Government of Vanuatu**

- 60.** The Committee received an objection presented by the ITUC concerning the nomination of an incomplete delegation on the Workers' side by the Government of Vanuatu. The ITUC submitted that the Government had not fulfilled its obligation under article 3, paragraph 1, of the ILO Constitution to accredit a complete delegation to the Conference. It requested the Committee to call upon the Government to provide explanations about this situation and that it recommend to the Government that it fulfil its constitutional obligations.
- 61.** *The Committee deeply regrets that the Government has neither furnished the information requested nor provided any explanations as to the reasons that led to the accreditation of an incomplete delegation. The Government's lack of responsiveness curtails the Committee's ability to discharge its mandate under article 5, paragraph 2(a) of the Conference Standing Orders.*
- 62.** *The Committee considers that by accrediting an incomplete delegation, the Government deprives the workers of the country of their right of being represented at the highest policymaking body of the ILO. Without the effective interaction of the tripartite constituents,*

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<sup>8</sup> Provisional Record No. 4C, 97th Session, 2008, para. 53.

*the Conference cannot function properly or attain its objectives. The Committee stresses that the failure to accredit a fully tripartite delegation is all the more regrettable as this year's virtual format permits remote participation in the Conference.*

- 63.** *The Committee notes that the Government of Vanuatu had sent a tripartite delegation for the first time in the last ten years on the occasion of the 108th (Centenary) Session of the Conference and urges the Government to make every effort to nominate a tripartite delegation to future sessions of the Conference and, if possible, to the present session in view of its extended nature that runs until 11 December 2021. The Committee recalls, in this respect, that the Office stands ready to offer assistance, as necessary.*

### **Late objection concerning the nomination of the Workers' delegation of the Bolivarian Republic of Venezuela**

- 64.** The Committee received on 10 June 2021 an objection concerning the nomination of the Workers' delegate and of his adviser and substitute delegate, of the Bolivarian Republic of Venezuela, submitted by the UNETE.
- 65.** *The Committee notes that, according to article 26 bis(1)(a) of the Conference Standing Orders, as modified by the Special arrangements and rules of procedure for the 109th Session of the International Labour Conference (ILC.109/D.1, Appendix A), an objection is not receivable if "the objection is not lodged with the Secretary-General before 10 a.m. (Geneva time) on 5 June 2021, on the basis of the presence of a person's name or functions on, or its absence from, the revised official list of delegations which will be published on 3 June 2021. If the objection is based on a further revised list, the time limit shall be 24 hours from 10 a.m. of the day of its publication".*
- 66.** *Given that the composition of the Workers' delegation of the Bolivarian Republic of Venezuela reflected in the second revised provisional list of delegations published on 9 June 2021 is identical to that contained in the revised provisional list of delegations published on 3 June 2021, the objection is deemed to be based on the information already contained in the revised official list of delegations published on 3 June 2021. As it should therefore have been lodged before 10 a.m. on 5 June 2021, the Committee finds that the objection is time-barred and irreceivable and does not call for any action on its part.*

### **Communications**

- 67.** The Committee received two communications on the same matter.

### **Communications concerning the composition of the delegation of the International Trade Union Confederation**

- 68.** The Committee had before it a communication dated 1 June 2021, addressed to the Director-General of the ILO and signed by Mr Win Shein, "Deputy Minister of Labour, Immigration and Population of Myanmar", entitled "Objection to the representatives from CTUM to attend the 109th International Labour Conference". The author objected to the participation in the Conference of two representatives of the ITUC whose titles were, respectively, Assistant General Secretary and Treasurer, of the Confederation of Trade Unions Myanmar (CTUM) on the ground that those persons were being prosecuted in Myanmar for criminal charges. The Committee also received a communication dated 4 June 2021 from the Permanent Mission of Myanmar in Geneva objecting to the participation of the President and two other members of the CTUM as representatives of the ITUC, as the CTUM was affiliated to the Committee Representing Pyidaungsu Hlutaw (CRPH) and the National Unity Government (NUG), both of which had

been declared unlawful organizations and terrorist groups by the State Administration Council of Myanmar.

69. *The Committee recalls its conclusions on the question on the representation of Myanmar (ILC.109/Record No. 3B).*
70. *The Committee notes that in responding to two similar communications dated 24 May 2021, received respectively from the same Deputy Minister and the Permanent Mission of Myanmar, the International Labour Office indicated that it had no authority to prevent the participation, or otherwise interfere with the selection, of representatives nominated by the international non-governmental organizations invited to participate in the Conference.*
71. *The Committee recalls that, when it received similar communications from the Government of Myanmar in 2001,<sup>9</sup> it clarified that, under article 5(2) and article 26 bis of the Conference Standing Orders, objections may only relate to nominations of the delegates or advisers of the tripartite delegation of Member States which are alleged not to have been made in accordance with the provisions of article 3 of the ILO Constitution. The Constitution and the Standing Orders do not provide for a procedure to challenge the nomination of other participants to the Conference, such as representatives from non-governmental international organizations with which standing arrangements for their participation in the Conference have been made (article 2(3)(j) of the Standing Orders). As it is in the latter capacity that the ITUC participates in the Conference, these communications call for no action on the part of the Committee.*

## Other matters

72. The Credentials Committee recalls that in accordance with the [Special arrangements and rules of procedure for the 109th Session of the International Labour Conference](#), the resumed part of the session will take place from 25 November to 11 December 2021. With a view of ensuring a maximum of participation during this second part of the Conference, Governments are called upon to ensure that up-to-date information is provided as regards their tripartite delegations and that participants remain ready and available for the resumed part of the session, or, otherwise, that they inform the [Secretariat of the Credentials Committee](#).

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73. The Credentials Committee adopts this report unanimously. It submits it to the Conference in order that the Conference may take note of it and adopt the proposals contained in paragraphs 14, 22 and 34

16 June 2021

*(Signed)* Mr Juan Pablo Schaeffer, Chairperson  
Mr Fernando Yllanes Martínez  
Ms Amanda Brown

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<sup>9</sup> *Provisional Record No. 17(Rev.)*, para. 74, and in 2002, *Provisional Record No. 5D*, para. 49.

