International Labour Organization

Protection against acts of anti-union discrimination: Evidence from the updated IRLex database

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ILO's Legal Database on Industrial Relations (IRLex)

- The ILO's Legal Database on Industrial Relations (IRLex) provides country profiles containing legal texts and summaries on industrial relations issues in 70 ILO Member States.
- It covers thematic areas such as collective bargaining, dispute settlement or workplace cooperation in regions with different legal systems. IRLex is a tool for policymakers and advisers, government officials, representatives of employers' and workers' organizations, and legal and industrial relations specialists around the world. The database was updated and expanded in 2020/2021.
- The IRLex database is concerned solely with the technical content of national legislation. It does not contain any information on how the law is applied in practice, nor does it include or imply any evaluation of its conformity with international labour standards.

What is anti-union discrimination?

This factsheet[1] provides evidence from the IRLex on protection against acts of anti-union discrimination. These should be granted against any action taken by an employer with the aim of prejudicing workers because of their trade union activities or dissuading them from forming or joining unions and/or taking part in future union activities. Discriminatory action — including the threat of discriminatory action — can take three forms:

1. making the hiring of a worker conditional on their not being a trade union member or refusing to hire workers with a history of union activity (blacklisting);
2. subjecting a worker to some form of prejudice or disadvantage during employment because of their union membership or activity;
3. dismissing or not renewing a worker's contract because of their union membership or activity.

What are the international labour standards around protection against anti-union discrimination?

Protection against acts of anti-union discrimination is enshrined in several international labour standards, but its first recognition is to be found in a fundamental ILO Convention[2], the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Article 1:

> Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

Convention No. 98 also specifies the three above-mentioned forms of discrimination: discrimination in relation to hiring, discrimination during employment and discrimination in relation to dismissal.

1 This IRLex factsheet was prepared by Ambra Migliore (ILO's Collective Bargaining & Labour Relations group within the Inclusive Labour Markets, Labour Relations and Working Conditions Branch), Conor Cradden and Marleen Rueda Catry (external consultants). Comments were gratefully received from Karen Curtis, Xavier Beaudonnet and Elizabeth Echevarria Manrique of the ILO's Freedom of Association Branch as well as ILO's Bureau for Employers' Activities and ILO's Bureau for Workers' Activities.

2 The ILO Conventions, Recommendations and Protocols that make up the international labour standards are divided into three categories: fundamental or core Conventions; governance (priority) Conventions; and technical Conventions. The ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022, declares that ILO Member States, " even if they have not ratified the Conventions in question, have an obligation ... to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions".

The Workers' Representatives Convention, 1971 (No. 135) supplements the worker protections of Convention No. 98 by specifically protecting workers' representatives from "any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities" (Art. 1). Convention No. 135 applies to all types of workers' representatives, union and non-union alike.

The Workers' Representative Recommendation, 1971 (No. 143) complements Convention No. 135 by explicitly providing for protection against discriminatory treatment against workers' and trade union representatives alike[3] at the level of the undertaking. It also provides a detailed list of measures that should be put in place in order to ensure that protection against discriminatory treatment is effective and is granted in practice.

The Labour Relations (Public Service) Convention, 1978 (No. 151) also explicitly protects public employees against acts of anti-union discrimination in respect of their employment, using the same wording as Convention No. 98, and again specifies the three above-mentioned forms of discrimination: discrimination in relation to hiring, discrimination during employment and discrimination in relation to dismissal.

The Termination of Employment Convention, 1982 (No. 158) reinforces the provisions of Conventions Nos 98 and 135 by specifying that trade union membership, participation in trade union activities or holding or seeking office as a workers' representative shall not count as valid reasons for dismissal.

Why do workers need to be protected against acts of anti-union discrimination?

The ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR)[4] and Committee on Freedom of Association (CFA)[5], when dealing with specific cases, have considered that "[a]nti-union discrimination is one of the most serious violations of freedom of association, as it may jeopardize the very existence of trade unions"[6]. Unless individuals are free to decide for themselves whether to form or join trade unions and/or take part in union activities without external pressure or the risk of negative consequences, workers' organizations cannot exist and operate freely and independently. The CFA has stressed that one form of anti-union discrimination, the dismissal of trade union leaders, may have a particularly damaging effect in the early stages of unionization. This practice can "fatally compromise incipient attempts at exercising the right to organize, as it not only deprives the workers of their representatives, but also has an intimidating effect on other workers who could have envisaged assuming trade union functions or simply joining the union"[7].

The CFA also stated that protection against acts of anti-union discrimination should cover not only hiring and dismissal but also any discriminatory measures during employment, in particular suspension, transfers, downgrading, the exclusion from certain benefits or career opportunities and all actions taken in retaliation against a worker exercising trade union activities[8], as well as compulsory retirement[9].

How are "union activities" defined in international labour standards?

While protection against acts of interference relates to employers' and workers' organizations, protection against anti-union discrimination applies in the first instance to individuals, in particular to workers who suffer a threat or a retaliation by reason of union membership, of holding or seeking office in a trade union or because they engage in union activities. Union activities may include but may not be limited to:

- forming a union and/or recruiting members (outside working hours or within working hours, with the permission of the employer);
- distributing, with the permission of the management of the undertaking, trade union news sheets, pamphlets, publications and other documents in the undertaking;[10]

3 Workers' representatives are defined as "elected representatives, namely representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned" (Para. 2(b)).
4 The Committee of Experts on the Application of Conventions and Recommendations (CEACR) is part of the ILO's regular supervisory system and was set up in 1926 to examine the growing number of government reports on ratified Conventions. Today it is composed of 20 eminent jurists from different geographic regions, legal systems and cultures. The role of the CEACR is to provide an impartial and technical evaluation of the application of international labour standards in ILO Member States. For further information on the CEACR and the ILO's supervisory system, see ILO, "ILO Supervisory System/Mechanism".
5 The Committee on Freedom of Association (CFA) is a Governing Body Committee created in 1951 for the purpose of examining complaints concerning violations of freedom of association on the basis of the respective principles recognized in the ILO Constitution (Preamble), the Declaration of Philadelphia and as expressed in the 1970 ILC Resolution regardless of whether or not the country concerned has ratified the relevant Conventions. Complaints may be brought against a Member State by employers' and workers' organizations. For further information on the role, composition and juridical significance of CFA decisions, see ILO, Freedom of Association: Compilation of Decisions of the Committee on Freedom of Association, sixth edition (2018), introduction.
6 ILO, Freedom of Association, para. 1072.
7 ILO, Freedom of Association, para. 1131.
8 ILO, Freedom of Association, paras 1087 and 1088.
9 ILO, Freedom of Association, para. 1109.
10 ILO, Recommendation No. 143, Paras 15 (2) and 15(3), which include the provision that union notices and documents should relate to normal trade union activities and their posting and distribution should not prejudice the orderly operation and tidiness of the undertaking.

- collecting trade union dues in the undertaking;[11]
- displaying union flags at meetings in the workplace;[12]
- signing petitions or participating in union rallies;[13]
- participating in collective bargaining;
- calling and participating in lawful peaceful strike actions;[14]
- representing individual workers in disciplinary or grievance proceedings;
- presenting collective grievances on behalf of other workers;[15] and
- making a recommendation to workers with respect to an employer proposal in the context of collective bargaining.[16]

How have regulatory frameworks in different countries sought to protect workers from anti-union discrimination?

Legislation included in IRLex suggests that the protection of workers from anti-union discrimination is achieved in two ways: workers may be granted a right not to be subject to discrimination or employers may be placed under a duty not to discriminate against workers.

Two further variations may be distinguished in each of these cases. Where the law takes the form of workers' right not to be subject to discrimination, the law may include trade union membership and activities in a wider category of unlawful grounds for discriminatory treatment that also includes discrimination on the grounds of sex, ethnic origin and so on. Alternatively, workers may be protected from discrimination as part of their exercise or attempt to exercise rights to freedom of association granted under a relevant act.

Where the law takes the form of the duty of employers not to discriminate, the breach of this duty may be defined with reference to a category of prohibited reasons for making decisions about recruitment, remuneration, promotion, disciplinary measures and dismissal.[17] Alternatively, the law may define a category of prohibited practices (sometimes called "unfair labour practices") that include the different types of acts of anti-union discrimination in which employers may engage. The law in some countries adopts more than one of these approaches. Table 1 sets out these distinctions and includes some examples drawn from IRLex.

▶ **Table 1: The basic form of the law on anti-union discrimination**

General criteria	Specific criteria	Country examples[18]	Legal texts from IRLex
Workers' right not to be subject to anti-union discrimination	Trade union membership and/or activities included in a wider category of prohibited grounds of discrimination	Albania, Bulgaria, Chile, Honduras, Morocco, Poland, Slovakia	Any discrimination against employees on grounds of race, colour, gender, disability, marital status, religion, political opinion, trade union membership, national descent or social origin, which has the effect of violating or impairing the principle of equality of opportunity or equal treatment in employment or occupational matters, is prohibited. Morocco, Art. 9(2) Labour Code In exercising labour rights and duties, no direct or indirect discrimination shall be allowed on grounds of nationality, origin, sex, sexual orientation, race, skin colour, age, political and religious convictions, affiliation to trade union and other public organizations and movements, family and financial status, presence of mental or physical disabilities. Bulgaria, Art, 8(3) Labour Code

Continued on next page

11 ILO, Recommendation No. 143, Para 14.
12 ILO, Freedom of Association, para. 254; while examinig a case, the CFA clarified that such trade union activities should be arranged through a dialogue process between management and trade union(s) in such a way that they do not interfere with the efficient functioning of the enterprise, see ILO, 374th Report of the Committee on Freedom of Association, GB.323/INS/9, 2015, para. 244.
13 ILO, Freedom of Association, para. 254.
14 On the right to strike, see ILO, Freedom of Association, Ch. 10, in particular para. 789 concerning the general conditions that the law may provide for the exercise of strike actions.
15 ILO, Freedom of Association, para. 1126.
16 ILO, Freedom of Association, para. 1127.
17 For further information on how different Member States legislate dismissal, see ILO, "EPLex".
18 The cited IRLex country profiles and national legal provisions are exemplary and non-exhaustive. The country examples given in table 1 were chosen for illustrative purposes only and do not include or imply any evaluation of their conformity with international labour standards.

	Guarantee of no discrimination on the grounds of the exercise of rights under freedom of association provisions in labour regulation	Kenya, Malaysia, Namibia	No person shall discriminate against an employee or any person seeking employment for exercising any right conferred in this Act. Kenya, Art. 5(1) Labour Relations Act 2007
Employers' duty not to engage in anti-union discrimination	Trade union membership and activities included in a category of prohibited reasons for decisions on recruitment, remuneration, advancement, disciplinary action and dismissal	Botswana, Cambodia, Ethiopia, Peru, Senegal, Tunisia, Uganda, United States	No employer shall prohibit an employee from being or becoming a member of any registered trade union or other organization such as is referred to in subsection (1) or of a particular registered trade union or other such organization or subject him to any penalty by reason of his membership or participation in the activities of a registered trade union or other such organization. Botswana, Section 56, Trade Union and Employers' Organizations Act Employers are forbidden to take into consideration union affiliation or participation in union activities when making decisions concerning recruitment, management and assignment of work, promotion, remuneration and granting of benefits, disciplinary measures and dismissal. Cambodia, Art.279 Labour Law No employer may take membership of a trade union or the exercise of trade union activity into consideration when making decisions concerning, inter alia, hiring, the performance and distribution of work, vocational training, promotion, remuneration and the granting of benefits, disciplinary measures or dismissal. Senegal, Art. L29 Labour Code
	Range of different specific types of anti-union discrimination included in a category of prohibited employer practices	Albania, India, Japan, Jordan, Nigeria, Korea, Republic of, Panama, Poland, Zambia	[Unfair labour practices on the part of employers include:] To interfere with, restrain from, or coerce, workmen in the exercise of their right to organize, form, join or assist a trade union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say: (a) threatening workmen with discharge or dismissal, if they join a trade union; (b) threatening a lock-out or closure, if a trade union is organized; (c) granting a wage increase to workmen at crucial periods of trade union organization, with a view to undermining the efforts of the trade union organization. India, Industrial Disputes Act 1947, fifth schedule, part I. [Unfair practices against trade unionism and workers' rights include:] (1) the formation of blacklists; (2) maltreatment of workers; (3) dismissals, sanctions, reprisals, transfers, deterioration or discrimination motivated by individual or collective complaints, by the fact of organizing or belonging to a union, or by having participated in a strike or signed a petition. Panama, Art. 388 Labour Code

What measures have been put in place to ensure the effective enforcement of provisions protecting against anti-union discrimination?

Workers' Representatives Recommendation, 1971 (No. 143) states that trade union and workers' representatives at the level of the undertaking "should enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities" (5) and further clarifies that "where there are not sufficient relevant protective measures applicable to workers in general, specific measures should be taken to ensure effective protection". The Recommendation then goes as far as outlining what some of these "specific measures" contributing to such effective protection could be, listing:

(a) detailed and precise definition of the reasons justifying termination of employment of workers' representatives;

(b) a requirement of consultation with, an advisory opinion from, or agreement of an independent body, public or private, or a joint body, before the dismissal of a workers' representative becomes final;

(c) a special recourse procedure open to workers' representatives who consider that their employment has been unjustifiably terminated, or that they have been subjected to an unfavourable change in their conditions of employment or to unfair treatment;

(d) in respect of the unjustified termination of employment of workers' representatives, provision for an effective remedy which, unless this is contrary to basic principles of the law of the country concerned, should include the reinstatement of such representatives in their job, with payment of unpaid wages and with maintenance of their acquired rights;

(e) provision for laying upon the employer, in the case of any alleged discriminatory dismissal or unfavourable change in the conditions of employment of a workers' representative, the burden of proving that such action was justified;

(f) recognition of a priority to be given to workers' representatives with regard to their retention in employment in case of reduction of the workforce.

As stated in Article 3 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98, "[m]achinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring" effective protection against acts of anti-union discrimination. The respect of such principles should be granted regardless of the general and specific criteria adopted by the different national legal frameworks to regulate protection against anti-union discrimination. Using the "Compare countries" function in the IRLex database, an overview of how specific measures have been adopted in practice in different labour law systems may be rapidly obtained.

Rapid and effective protection

The effective enforcement and guarantee in practice of protection against acts of anti-union discrimination should be rapid and effective.[19] In many systems, this involves procedural rules that are different from those that apply in other areas of the law. This may include dedicated rules of evidence and other specific measures to ensure a fair process in the employment context, as well as precautionary measures such as suspending the implementation of contested employer decisions until a court or tribunal decision becomes final. In Zambia[20], for example, the Industrial Relations Court is not bound by the rules of evidence that apply in civil and criminal proceedings. This means that it has more flexibility about the basis on which it can draw conclusions in a situation in which different actors may have very different perspectives on the events in question. In terms of ensuring the rapid resolution of complaints, the information available in IRLex suggests that many jurisdictions place strict limits on the time that investigation, adjudication and compensation or redress can take.

Fast-track procedures

In some legal frameworks, in order to ensure that the protection against acts of anti-union discrimination responds to the requirements for rapidness and effectiveness, the law establishes special procedures that differ from regular procedures (either civil or criminal, depending on the specific legal system) and provide for a shorter and/or simplified track so as to ensure that workers who have been victims of anti-union discrimination may seek a remedy in a shorter amount of time and through a less burdensome and more simplified procedure than a regular trial. Such is the case for example in Argentina, where the law extends to cases of anti-union discrimination – and violations of freedom of association more generally – the summary procedure established in article 498 of the Code of Civil and Commercial Procedure so as to allow, if appropriate, the immediate cessation of anti-union behaviour.

19 ILO, Freedom of Association, paras 1134 and 1162.
20 The country examples given in this fact sheet were chosen for illustrative purposes only and do not include or imply any evaluation of their conformity with international labour standards.

Suspension of dismissals

In some cases, labour inspectors or other state offices have the power to suspend the legal effect of a dismissal, temporarily reinstating the worker pending a court ruling if there is a prima facie case that the dismissal was made for prohibited reasons. This power may apply to the dismissal of any worker, as is the case for example in Serbia[21], or it may apply only to the dismissal of workers' representatives, as is the case in Côte d'Ivoire[22]. A stronger form of this protection may apply during a period in which freedom of association rights are particularly sensitive. In Panama[23], workers are protected under the so-called "fuero sindical", a form of protection recognized for trade union members and leaders that grants protection to members of unions in the process of formation; members of trade unions' executive boards, federations and confederations or workers' organizations; the substitutes of trade union representatives, even when they are not exercising their functions; and trade union representatives. Workers falling under the scope of this protection may not be dismissed without prior authorization from the labour courts, based on a just cause provided for in the law.

Reversal of the burden of proof

Article 6(1) of Workers' Representatives Recommendation, 1971 (No. 143 outlines a series of specific measures that may be adopted by ILO Member States to grant effective protection to workers' representatives where there are not sufficient relevant protective measures applicable to workers in general, including the reversal of the burden of proof. That provision of Recommendation No. 143 was also recalled by the CFA in the analysis of specific cases[24] when called to provide its decision on the need to ensure effective protection against acts of anti-union discrimination. Making a choice among different candidates for a job, allocating privileges and benefits differentially based on worker performance or behaviour and dismissing workers for economic or performance reasons are all employer decisions that may be made for legitimate reasons. This means that it may be difficult to show that the real reason for any such action against a worker is anti-union discrimination. Generally, legal systems place the burden of proof on the complainant. Nonetheless, in disputes relative to discriminatory treatment, given the complex – and at times impossible – challenge of proving that the motivation of a certain behaviour or decision of the employer is of a discriminatory nature, the law shifts the burden of proof onto the employer, who must demonstrate that allegedly discriminatory actions were taken for legitimate reasons. This is a common provision found in legal systems as diverse of those of Burkina Faso[25], Chile[26], Belgium[27] and Montenegro[28]. In some other legal systems, the reversal of the burden of proof is not automatic but is triggered by a submission by a worker of prima facie[29] evidence.

Sufficiently dissuasive sanctions

An additional measure for securing effective protection is to legislate sanctions against breaking the law that are sufficiently dissuasive to provide a real incentive to comply.[30] A precise definition of "sufficiently dissuasive" is impossible to formulate, but IRLex allows us to appreciate the range of legal strategies that have been used in different systems to ensure compliance. One option is to require financial compensation for discrimination in terms of multiples of a workers' salary. This avoids the possibility that the value of fixed currency amounts will be eroded over time. Measures of this kind are in place, for example, in Albania[31], Panama[32] and Belgium[33].

As noted above, Recommendation No. 143 outlines the importance of including in the measures to secure effective protection the reinstatement of trade union representatives who have been victims of discriminatory dismissal by reason of their trade union activity. In the analysis of specific cases, the CFA noted that "[n]o one should be subjected to anti-union discrimination because of legitimate trade union activities and the remedy of reinstatement should be available to those who are victims of anti-union discrimination",[34] while emphasizing that reinstatement is "an effective means of redress".[35] Some systems include additional compensation for workers who have been dismissed for discriminatory reasons when it is not possible for them to be reinstated

21 Serbia, Labour Code, art. 291.
22 Côte d'Ivoire, Labour Code, art. 61.9.
23 Panama, Labour Code, art. 381.
24 ILO, Freedom of Association, para. 1154.
25 Burkina Faso, Labour Code, art. 70 (1).
26 Chile, Labour Code, art. 493.
27 Belgium, Law combating certain forms of discrimination of 10 May 2007, art. 28(1).
28 Montenegro, Law on Prohibition of Discrimination (Text No. 407/19), art. 29.
29 "Prima facie" is a Latin term that means literally "at first sight" and refers to the standard of proof in which the party with the burden of proof (in this case the complainant worker) need only present enough evidence not to actually prove the discriminatory behaviour but to simply create a rebuttable presumption that the matter asserted is true.
30 ILO, Freedom of Association, paras 1165, 1175 and 1176.
31 Albania, Labour Code, art. 146 (3).
32 Panama, Labour Code, art. 255.
33 Belgium, Law combating certain forms of discrimination of 10 May 2007, art. 18.
34 ILO, Freedom of Association, para. 1163.
35 ILO, Freedom of Association, para. 1165.

in their posts. Examples include Burkina Faso[36], Jordan[37] and Italy[38]. In addition, several systems, including those of Argentina[39] and Italy[40], offer workers the option to choose between reinstatement and additional compensation.

▶ **Table 2: Measures for effective enforcement of provisions protecting against anti-union discrimination**

General principle regulating effective enforcement	Country examples[41]	Legal texts from IRLex
Rapid and effective protection	Algeria, Chile, Italy, Zambia	The Court shall not be bound by the rules of evidence in civil or criminal proceedings, but the main object of the Court shall be to do substantial justice between the parties before it. *Zambia, ILRA, section 85(5).* In case of acts of anti-union discrimination, the judge of the place where the behaviour has taken place summons the parties within the two days following the discriminatory behaviour and orders the employer, by reasoned and immediately enforceable decree, to end the unlawful conduct and remedy its effects. Any employer who fails to comply with the decree shall be punished in accordance with the Italian Criminal Code. *Italy, Workers' Statute, art. 28*. Any dismissal of a trade union representative occurring in violation of the provisions of the present law shall be null and void. The person concerned shall be reinstated in his/ her position and his/ her rights shall be reinstated at the request of the labour inspector as soon as the infringement is confirmed by the latter. In the event of the employer's manifest refusal to comply within a period of eight days, the labour inspector shall draw up a report and refer the matter to the competent court, which shall rule by an enforceable decision within a period not exceeding sixty days, notwithstanding opposition or appeal. *Algeria, Law on Trade Union Rights, art. 56 (order 96–12).*
Existence of "fast-track procedures"	Albania, Algeria, Argentina, Australia, Burkina Faso, Chile, Colombia, Denmark, Italy, Montenegro, Norway, Panama, Serbia, United States, Zambia	The challenge of unfair practices will be processed as an abbreviated process and will be promoted by the Ministry of Labour and Social Security, or by a number of affiliates not less than 10 per cent of the total number of members of the organization, except in the case of exclusion of an affiliate or removal of a union officer or representative, who can only be promoted by the interested party. *Panama, Labour Code, art. 394*. Any worker or trade union association may seek the protection of the rights of freedom of association before the competent judicial tribunal, in accordance with the summary procedure established in article 498 of the Code of Civil and Commercial Procedures of the Nation or the equivalent in the provincial civil procedural codes, so that it provides, if appropriate, the immediate cessation of anti-union behaviour. *Argentina, Law No. 23551 on Trade Union Associations, art. 47.*
Suspending or limiting the application of a dismissal	Brazil, Burkina Faso, Côte d'Ivoire, Denmark, Honduras, Paraguay	It is forbidden to dismiss a unionized employee from the moment of the registration of the candidacy to a position of union direction or representation and, if elected, even if as a substitute, until one year after the end of the term, unless the worker commits a serious misconduct under the law. *Brazil, Constitution, art. 8 (VIII).* The labour inspector's opinion must be sought concerning any dismissal of a titular or alternate workers' representative that is envisaged by the employer or his/her representative. If authorization is not granted, the workers' representative shall be reinstated with payment of wages relating to the period of suspension. *Burkina Faso, Labour Code, arts 314 (1) and (3).*

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36 Burkina Faso, Labour Code, art. 314.
37 Jordan, Labour Law as amended in 2019, art. 108(C).
38 Italy, Workers' Statute, art. 18.
39 Argentina, Law No. 23551 on Trade Union Associations of 23 March 1988 (as amended in 2009), art. 52; and Law No. 23592 on Discriminatory Acts of 3 August 1988, art.1.
40 Italy, Workers' Statute, Law No. 300 of 1970 and Legislative Decree No. 23 of 4 March 2015 on open-ended contracts with rising degrees of protection
41 The cited IRLex country profiles and national legal provisions are exemplary and non-exhaustive. The country examples cited in this table were chosen for illustrative purposes only and do not include or imply any evaluation of their conformity with international labour standards.

		During proceedings, the Court can decide that the dismissal is not given legal effect before the claim has been settled by the court. The court can decide in its ruling that any appeal does not have suspensive effects. *Denmark, Act on Freedom of Association, section 4*. Once the provisions of article 517 of the Labour Code have been completed by the workers, the General Directorate of Labour must establish an email address to receive a copy of notifications from the workers of their intention to organize a union in a business. When workers notify in accordance with the aforementioned article, a copy must be sent to said electronic address to the Directorate ... The Directorate must indicate that the signatory workers are under the special protection of the State, from the moment they notified the employer. Consequently, from the date of notification until receipt of proof of legal status, none of these workers can be fired, transferred, or subject to a deterioration in their working conditions without just cause, previously qualified by the respective authority. *Honduras, Labour Inspection Law, art.72*.
Reversal of burden of proof	Australia, Belgium, Burkina Faso, Chile, Montenegro	The reason for action is to be presumed unless proved otherwise, if: (a) in an application in relation to a contravention of this part, it is alleged that a person took, or is taking, action for a particular reason or with a particular intent; and (b) taking that action for that reason or with that intent would constitute a contravention of this part; It is presumed that the action was, or is being, taken for that reason or with that intent, unless the person proves otherwise. *Australia, Fair Work Act, section 361*. A reversal of the burden of proof is foreseen whenever a person has been a victim of an alleged discriminatory act. A complaint explaining the facts shall be presented before the court of competent jurisdiction by the Centre for Equal Opportunities and the Fight against Racism or one of the interest groups. *Belgium, Law 10 of May 2007, art. 28(1)*. In the event of a dispute over the grounds for dismissal, the employer is required to provide proof of the legitimacy of the alleged justification for the termination, before the competent court. *Burkina Faso, Labour Code, arts 70 (1) and 102 (3)*.
Sufficiently dissuasive sanctions	Côte d'Ivoire, Denmark, Italy, Jordan	Where the liability lies with the employer, the amount of damages equivalent to one month's gross salary per year of service in the undertaking shall not be less than three months' salary nor exceed twenty months' gross salary. These damages shall not be confused with compensation for failure to observe the notice period or with severance pay. *Cote d'Ivoire, Labour Code, art 18.15*.

Where to get additional information on protection against acts of anti-union discrimination?

- Tables 1 and 2 provide information on protection against acts of anti-union discrimination in selected ILO Member States. The online database IRLex (www.ilo.org/irlex) can be used to get access to summaries and full texts of relevant national legal sources and to explore regulatory examples in more depth.
- The IRLex database is concerned solely with the technical content of national legislation. It does not contain any information on how the law is applied in practice. Nor does it include or imply any evaluation of its conformity with relevant international labour standards. The comments by the ILO supervisory bodies should be consulted to assess the application of standards by ILO Member States in law and practice.
- Disclaimer: Summaries and full texts of legal sources in IRLex are provided for information purposes only and are not intended to replace the authentic legal texts. Each country profile has been verified by a country specialist. However, this is no guarantee that the laws identified and contained in IRLex are always complete, accurate and the most recent version. The database will be updated at regular time intervals. Please contact us if you have updated information or comments at inwork@ilo.org

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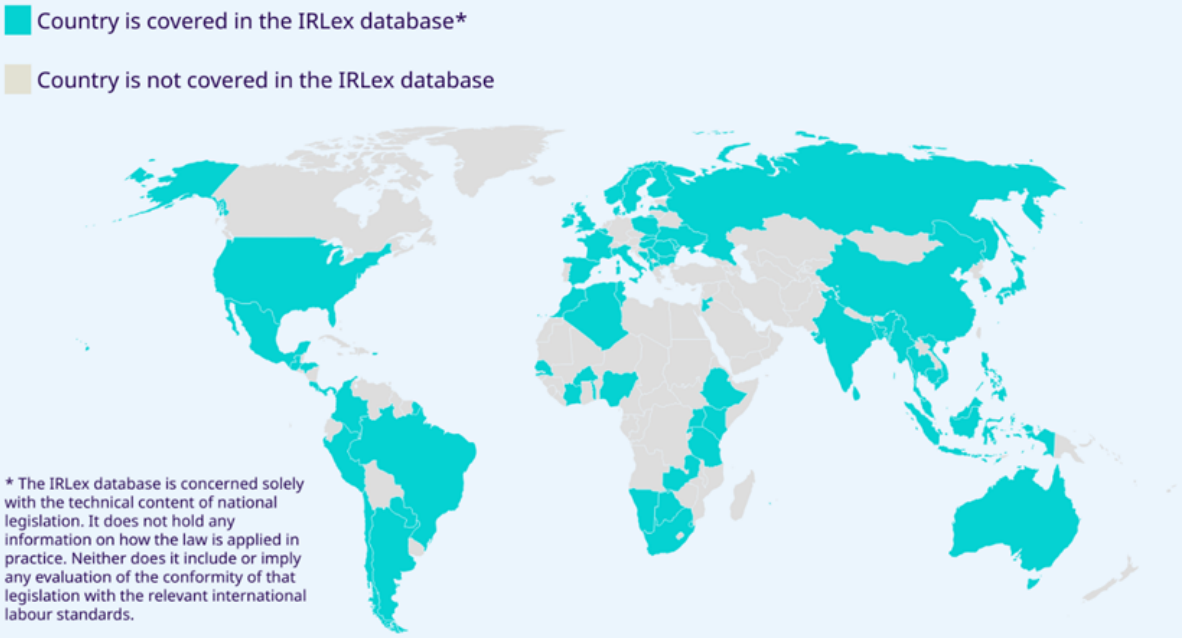

Direct links to the text of national legal provisions and summaries in IRLex

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