

TOWARD 50 YEARS OF CONVENTION 151 OF THE ILO

FOR THE UNIVERSALITY OF COLLECTIVE BARGAINING IN THE PUBLIC SECTOR

JUNE 2025



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COLLECTIVE BARGAINING IN THE PUBLIC ADMINISTRATION: A PATH TO FOLLOW*

In **2028** the **FIFTY-YEAR ANNIVERSARY** of the adoption of **Convention 151 of the International Labor Organization** shall be celebrated. This Convention regulates labor relations in the Public Administration, and it guarantees state workers' right to participate in the determination of their working conditions by means of Collective Bargaining. Moreover, a year later that right was bolstered by means of Convention 154.

In this context, in October 2022, we, the **Latin American and Caribbean Confederation of State Workers** [CLATE as per its Spanish acronym] and the **Latin American Association of Labor Lawyers** [ALAL as per its Spanish acronym] signed an agreement to launch jointly a campaign in our region in order to foster the universality of this right and to ratify Convention 151 and ensure its full implementation in all the countries of our America.

We undertook this challenge recognizing that, as the Experts Commission of the tripartite body in 2013 stated, it is about **following a path towards the implementation of this Convention** where it has not been ratified yet, but also it is about taking on the task of **putting into practice Collective Bargaining within the Public Sector** where the legislation has been adapted to this rule, but the State as employer does not guarantee the exercise of this right.

First, we have to remember that the adoption of Convention 151 was the result of a long struggle of public servants and their national and international unions, in order for their **labor rights** to be recognized. That's due to the fact that during a long time, public employees were not considered workers. Governments did not recognize their employees or their rights as workers and, therefore, the application of international Conventions was avoided.

And, for that reason, we maintain that from the adoption of Convention 151, on the **27 of June 1978**, public servants begun to be recognized as workers, and as such they shall enjoy the same rights: to group themselves, to participate and to have representatives in the discussions of collective conventions, to be able to call a strike and take part in it, and other rights of the working class which have been prohibited to state employees.

In other words, these collective rights have always existed for unions of the Public Sector, but the States, in their role of employers, have always hindered their effective exercise. The adoption of this Convention on the part of the ILO propelled the process of shifting away from the failure to recognize rights to union activity.

However, in many countries of our region, as we can see in this report, Convention 151 has not been ratified yet. And that is because within the administrative power of the States, regrettably, there is still that old conception that public employees do not have the same rights as the ones of the private sector. And that occurs in spite of the fact that in all the countries of our America there are democratic governments and, at least formally, the rule of law governs.

An example of this lack of acknowledgement, although not the only one, in our Latin America, is the case of Bolivia. In that Republic, not only collective bargaining, which does not exist, but also the right of public servants to group themselves is still questioned. And this lack of consideration is maintained regardless of the political colors of governments.

And why do our organizations undertake this task of collectively building a situation analysis about the collective bargaining of the Public Sector? Because we consider that this right not only includes wage issues, as it occurs in many cases, but also other important aspects which guarantee the full exercise of all the rights for public employees.

We understand that the **Collective Labor Convention shall regulate absolutely all the aspects related to public employment**. From policies to join the Public Administration to, for example, how to attain full stability. Let's examine some of these aspects which we wish to highlight here as an introduction, and that later may be recognized throughout this report.

• **Stability against corruption**

Job Stability is vital for public employees. Beyond the political wing which comes to power, with the task and commitment of public employees, the implementation of public policies and the control of the management of public funds are guaranteed. For that reason, we state that in order to fight against corruption it is required to stabilize the public employment.

What does this right contribute to collective bargaining? The possibility of discussing with the employing State all the aspects of the career within the public role. Where there is no collective convention, the regime of public employment is defined unilaterally through statutes, decrees, or even laws which intend to put the activity in order, but which have an evident democratic deficit.

• **An organizer for the common benefit**

Other rights as unionization, the election of representatives or delegates, even the strike, may also be discussed in the context of collective bargaining, because the right of protesting is a natural right of people, and it even tends to be guaranteed in a National Constitution or in a labor law, but its characteristics shall be established by means of the negotiation. The issue of minimum services, for example, in the context of forceful measures in essential services, shall be established by means of an agreement between the parties and it shall not be solved unilaterally by the Government on duty.

Even in this report, some examples of the issues that we expose may be reflected. In those places or areas of state work where collective bargaining has made progress with union representation, an improvement in the service provided to the population is seen, because it is not only about a benefit for workers. If the aspects bargained, as the administrative career, highlighting the eligibility, studies, and training of these public servants are respected, undoubtedly, the application of public policies shall have a higher quality.

In other words, the Collective Convention benefits workers, the political power, employers and, ultimately, the community which is the recipient of our work. It is an organizer which benefits everyone, and it can be clearly seen in the places where Collective Conventions are applied.

• A limit to arbitrariness

When clear rules for the work in the Public Sector do not exist, the political power on duty has a unilateral, arbitrary power to take any decision. We talk about the arbitrariness of power at the time of appointing directorships or job positions, or at the time of recognizing a worker who discriminates other worker, for example, because he or she does not join the union.

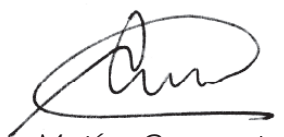
Within any State there is an arbitrary power which imposes itself with the arrival of a certain political wing. And that involves, as it is known, the appointment of advisors or officers aligned with that political ideology. That arbitrariness is understood because each government has to choose its own work teams.

However, public employees are the developers of those policies. Public employees, protected by a Collective Labor Convention, with stability in their jobs and administrative careers, with constant training and assessment, may also represent a brake against the immeasurable arbitrariness. The Collective Convention is the great organizer of the public sector.

A collective map

This report, which has been collectively composed since 2022 with the contribution of unions which are members of the CLATE and of labor lawyers of the ALAL, is a collective map which allow us to see the current working conditions in the Public Sector and which helps us to prepare and train ourselves in order to make progress in the application of this right in each national, provincial, regional, or municipal State of Latin America and the Caribbean.

In 2028, year in which 50 years of the adoption of Convention 151 of the International Labor Organization shall be celebrated, we hope to find this collective map full of examples of conventions in each corner of the region. And with the CLATE and the ALAL working jointly for the universality of the right to bargain collectively in the Public Sector.



Matías Cremonte
President of ALAL



Julio Fuentes
President of CLATE

**Title of the General Study related to labor relations and to collective bargaining in the Public Administration composed by the Experts Commission in the Application of Conventions and Recommendations of the ILO for the 102 International Labor Conference of the year 2013.*

WHAT HAPPENS WITH CONVENTION 151 IN OUR REGION?

COUNTRIES WHICH HAVE ALREADY RATIFIED IT



POLITICAL ORGANIZATION OF THE ARGENTINE STATE

The Argentine Republic is divided into 24 jurisdictions: 23 provinces and an Autonomous City (Buenos Aires), the capital city. Moreover, at a secondary level, there are 380 departments, 135 districts, and 15 communes. Moreover, there are 1298 municipalities, and as of September 2020, 186 of them have enacted their charters and they are in force.

ABOUT WORKING STRATUMS OF PUBLIC SERVANTS.

- National
- Provincial
- Municipal
- Legislative
- Judicial
- Of the State-owned banking

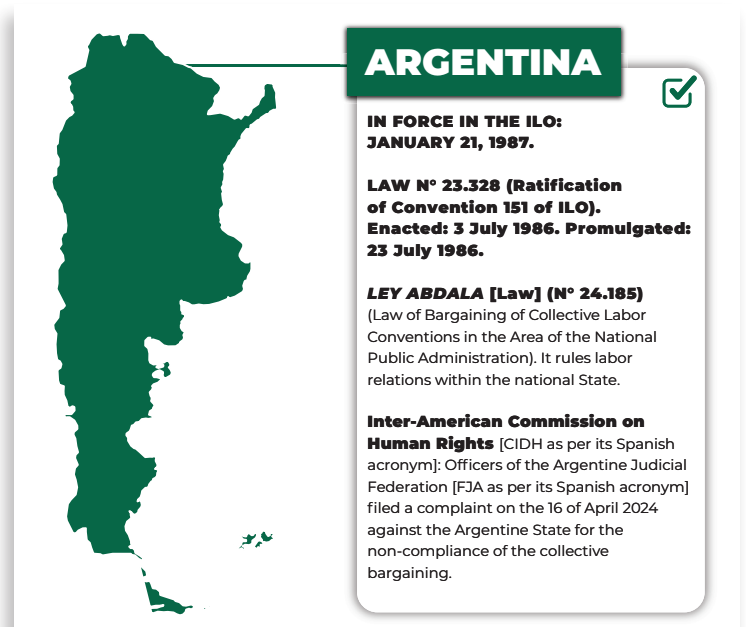
ABOUT LABOR LEGISLATION IN FORCE

In Argentina, Convention 151 was ratified in 1986 by virtue of [Law N° 23.328](#) of the National Congress.

However, [Law N° 24.185](#) of Bargaining of Collective Labor Conventions in the area of the National Public Administration was issued in March 1993. This law is known as *Ley Abdala*, in reference to the historical labor union leader of state employees of the Association of State Employees [ATE as per its Spanish acronym], and in those times, national deputy Germán Abdala who presented the project.

In its section 6, that Law explains that: “collective bargaining shall take place in a general or sectorial area. The parties shall organize the bargaining in the different levels. For each bargaining, general or sectorial, a bargaining commission shall be composed. Its members shall be: the representatives of the employing State and the representatives of public employees, and it shall be coordinated by the administrative authority of labor. In the case of the bargain in the sectorial area, the workers’ associations which correspond to those areas and those which at the national level include this sector in their scope of action shall intervene jointly”.

On the other hand, the [National Constitution of Argentina](#), without setting apart the public or private scope of application, in its Section 14 bis sets forth: “labor, in its different forms, shall be protected by laws which shall guarantee decent and equitable working conditions to workers, limited working hours, rest and paid holidays, fair remuneration; minimum, living and adjustable wages; the same remuneration for the same task; free and democratic unions recognized by the simple registration in a special registry... It is guaranteed to labor unions: to establish collective bargaining conventions; resort to settlement and arbitration; the right to strike. Union representatives shall enjoy the necessary guarantees for the compliance of their union management and the ones related to their job stability”.



Furthermore, section 31 sets forth: “This Constitution, the laws of the Nation passed by virtue of it by the Congress and the treaties with foreign powers are the supreme law of the Nation; and the authorities of each province are bound to comply with it”.

On its part, section 75 sets forth the powers of the National Congress, among which the one of “passing a Code of Labor and Social Security” can be found. Since it is a federal country, each provincial State has retained the power of passing a set of rules related to public employment, and for that reason there is not a rule at the national level which regulates the relations of public employment in a unified way for the whole country. The same occurs with the regulation of the right to bargain collectively in this area, therefore, each province has to pass its own regulation.

CONVENTION FOR THE NATIONAL PUBLIC ADMINISTRATION

Nowadays, public servants of the National Public Administration are included in the [Collective Labor Convention 214/06](#). Moreover, there are other conventions at a sectorial level and in other state levels, as provincial or municipal.

As the national Law sets forth in its section 2, “Provinces and the Municipality of the City of Buenos Aires shall be able to join the bargaining system which is established here, in accordance with the regulations passed by their competent bodies”.

In this context, the ATE, member of the CLATE, in its official website introduces the [conventions](#) signed in different areas of union participation at the national level.

Some of them are: *Instituto Nacional de Cine y Artes Audiovisuales* (INCAA) [National Institute of Cinema and Audiovisual Arts]; *Brigadistas* [Firefighters, Emergencies, and Community Aid]; *Instituto Nacional de Tecnología Agropecuaria* (INTA) [National Institute of Agricultural Technology]; *Instituto Nacional de Tecnología Industrial* (INTI) [National Institute of Industrial Technology]; *Profesionales de la Salud* [Health Professionals]; *Sistema Nacional de Empleo Público* (SINEP) [National System of Public Employment]; *Trabajadores Civiles de las Fuerzas Armadas y de Seguridad* (FFAA) [Civil Workers of the Armed Forces and of Security]; *Servicio Nacional de Sanidad y Calidad Agroalimentaria* (SENASA) [National Service of Agri-food Health and Quality]; *Sindicatura General de la Nación* (SIGEN) [National General Comptroller’s Office], among others.

OTHER CONVENTIONS AT THE PROVINCIAL AND MUNICIPAL LEVEL

The ATE, which not only represents state workers at the national level but also in the provincial and municipal states of Argentina, also participates in different local areas of collective bargaining and signs collective labor conventions with district authorities.

An example of that is the situation that takes place in the province of Neuquen, in the Argentine Patagonia. In that district, after [Law N° 1974](#) was passed in the year 1992, there are different [collective conventions](#) signed between the provincial State and the unions of the Public Sector.

Those conventions, which regulate working conditions and wages, comprehend all workers of the Public Administration of the province and of other areas of the state of Neuquen such as: the government auditing board; the office of the undersecretary of Public Work; the Provincial

Agency of Water and Sanitation [EPAS as per its Spanish acronym]; the Provincial Agency of Energy [EPEN as per its Spanish acronym], among others.

Moreover, in this province of the Patagonia, collective conventions have been signed in different municipalities. Some examples are the ones of the city of San Martín de los Andes, which has already signed a second collective convention with the ATE and the municipality of Andacollo.

Conventions have also been signed in other provinces of the Patagonia at the municipal level, such as in [Ushuaia](#) and Tolhuin of the province of Tierra del Fuego; the city of [El Chaltén](#), in the province of Santa Cruz and Trelew, in the province of Chubut.

In this respect, the labor union explains that “collective labor conventions signed at the provincial and municipal level, from which we present some examples, generate great benefits for the workers of different cities of our country and establish some basic claims which ATE defends in each sector of the State and at all district levels. Moreover, in many of them, the genre perspective has also been included in line with the momentum of our union in the whole country”.

THE CASE OF STATE-OWNED BANKING

Representatives of the *Association of Senior Staff of Official Banks* [APJBO as per its Spanish acronym], member of the CLATE, inform that collective bargaining for the sector is encompassed in [Convention 18/75](#), which is the one that regulates the workers of the financial system.

The union also explains that “our area of bargaining, as of today, is subject to judicial review since the union, which represents the private and public personnel of financial entities, generally only discusses in the collective bargaining the issue of wages”.

APJBO, when it appeared before the Court, expressed the need of discussing other aspects when bargaining collectively such as working conditions, which are subject to constant modifications performed unilaterally by the employers claiming that the convention in force is dated in the year 1975. They also explain that “to open the debate about working conditions may allow to consider the technological changes which influence the development of our task within State-owned banking”.

OFFICERS OF THE JUDICIAL SYSTEM WITHOUT COLLECTIVE BARGAINING

Although in Argentine Convention 151 is in force, most workers of the Argentine judicial system do not enjoy the right to bargain collectively.

The Argentine Judicial Federation [FJA as per its Spanish acronym], member of the CLATE, in this sense, highlights that the National Supreme Court of Justice [CSJN as per its Spanish acronym], in response to the complaint presented by the organization to the Committee on Freedom of Association in 2010 of the ILO, maintained that Convention 151 could not be applied to the agents of the judicial branch and that, in any case, that court was the one that had to determine unilaterally the rights.

Therefore, except the Autonomous City of Buenos Aires and the provinces of Santa Cruz, Mendoza, La Pampa, Neuquen and Rio Negro, in the rest of the country and, specially, at the federal and national level, all possibilities of collective bargaining are rejected.

However, it is worth mentioning that even in those provincial jurisdictions where an instance of collective bargaining exists, in the face of the lack of a general scope which comprises the whole territory, bargaining is reduced to its minimum expression, considering that issues may not be solved locally as a single ladder, transfers of employees from a province to another, and different issues which take place in all areas.

Moreover, the existence of collective bargaining in a few provinces and the rejection of this right in the Nation and in most provincial districts produces a clear inequality of rights, beginning with wages, but following with every and all working conditions and employment. Thus, it is necessary not only to guarantee the right to bargain collectively but also that it has to take place in a common space which brings together all sectors, as it happens with the unions of the teaching activity.

In this context, the FJA recognizes that “not only all the petitions in this sense of this Federation have failed but also, among other issues, a resolution of the Committee on Freedom of Association and many recommendations of the Experts Commission have been disregarded, both of them being bodies of the ILO, and many legislative initiatives have expired and, talking about facts, there is no access to a jurisdictional instance capable of guaranteeing the right and making it effective in practice”.

“Therefore, an essential right is violated affecting a universe of more than one hundred twenty thousand workers which are part of the Argentine judicial system, and the action of their representative organizations is neutralized, that is to say, the Argentine Judicial Federation and twenty-three first level unions which compose it”, they explain.

We have to add that in Argentina there are no internal jurisdictional instances which guarantee the right of officers of the judicial system to bargain collectively, that is to say, they do not have an effective guardianship on the part of a court of justice.

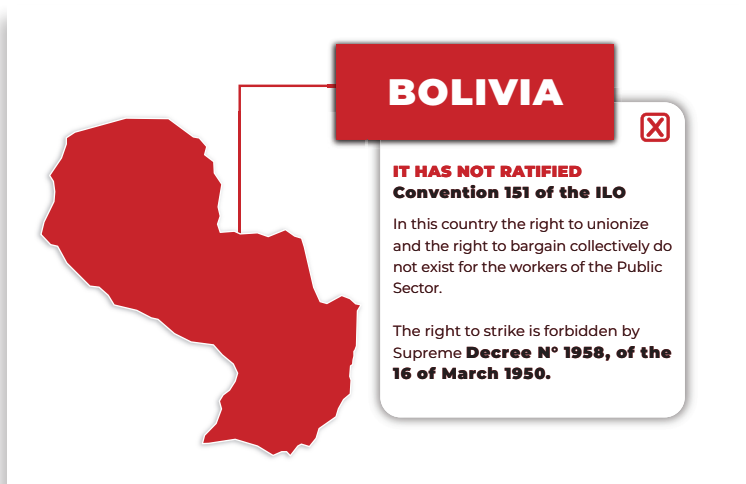
In fact, whereas collective bargaining refers to the effective capacity of workers and the unions which represent them of making an agreement with the employers about the working conditions and employment, and considering that in that specific case those employers consist in the national states, provincial states, and the Autonomous City of Buenos Aires, the existing courts are not independent and impartial.

Therefore, judicial workers, deprived of the right to bargain collectively, have not had the possibility of having access to a competent, independent, impartial court of justice which guarantees the effective exercise of the right violated in accordance with the guaranties of the due legal process.

In the face of this situation, recently, the Argentine Judicial Federation has submitted a petition before the Inter-American Commission on Human Rights, to impose the obligation of complying with the right to Bargain Collectively to the Argentine State and, in turn, to guarantee its judicial guardianship.

POLITICAL ORGANIZATION OF THE BOLIVIAN STATE

The Plurinational State of Bolivia adopts for its government the participative, representative and communal democratic form. Apart from the Executive branch at the national level, the territory of the country is divided into nine departments which, in turn, are divided into 112 provinces, and they are divided into 339 municipalities and indigenous, native, country territories.



Each of these territories has its own government which is composed of an Executive branch and a local Legislative branch chosen by universal suffrage.

Moreover, there is the figure of the Indigenous Native Country Government: self-government of indigenous people in ancient territories in which they currently live.

ABOUT LABOR LEGISLATION IN FORCE

Convention 151 of the ILO has not been ratified in this country.

On the contrary, section 104 of the [Ley General del Trabajo](#) [General Labor Law] sets forth that “public officers, regardless of their title and condition, shall not be able to create labor unions”. In some cases, as in the health area and in the education area, and thanks to social struggles, unionization is allowed for workers.

Moreover, the [Political Constitution](#) of the State does not specifically include the right to Bargain Collectively of public servants.

Nowadays, as a regulatory framework which includes these essential rights of the workers of the Bolivian State does not exist, in practice, for example in Supreme Decrees annually approved by the Government about wage increases or, it would be better to say, the recovery of the loss of purchasing power of wages, it is determined that in public entities the authorities shall not bargain any possibility of wage increase out of the Decree issued by the Government, under penalty of establishing administrative, executive and, eventually, civil charges.

ABOUT THE TYPES OF BARGAINING

If public servants are not able to unionize, they shall not be able to enter into Collective Labor Conventions. However, the ones that are able to unionize as in the case of the health and education area, workers sign Conventions at the department and national level.

In these cases, as a specific regulation for the Public Sector does not exist, health or education conventions or agreements take as reference the General Labor Law which preferably rules labor relations in the private sector. Generally, the lists of claims of these areas are comprised in the list of claims of the Bolivian Confederation of Unions [COB as per its Spanish acronym] which is presented every year to the governmental authorities.

ABOUT BARGAINING

With the submission of the list of the COB, complaints on the part of public workers of the health and education areas are included. Later, in work tables, mainly, wage issues and some themes referred to adequate conditions to perform their work are bargained.

The other sectors of the Public Administration are deprived of the rights of bargaining and unionization, as previously mentioned.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

In Bolivia, the right to unionize is not recognized. Those few sectors which manage to have labor unions to represent them may, in general terms, get protection from the “right to job security for union representatives” determined in the Political Constitution of the State and other rules.

Job Stability

As regards stability and the career in the Public Administration, it is important to highlight that a small number of public servants enjoyed the regime of the “administrative career”, which enabled to choose a position by virtue of a competence exam, examination of merits or for years of continuous employment.

However, the government of Luis Arce, by virtue of the [Financial Law of the year 2021](#), determined that the “administrative career” had to be abolished and, therefore, the job stability of Public Servants is not safeguarded. The ones that are safeguarded against this decision are people who are parents of a child up to the age of one; persons with disabilities, or parents of a disabled person. These are the only cases which enjoy stability and irremovability in their job positions within the State.

The right to strike

Workers of the Public Administration in Bolivia do not have the right to strike. When a measure of this type takes place in areas such as the health or education area, strikes are declared illegal.

Moreover, the 1º section of [Supreme Decree N° 1958](#), dated on the 16 of March 1950, sets forth: “The following public services are determined public services for the purposes of section 118 of the General Labor Law, and section 157 of the Regulatory Decree: a) Public, Fiscal and Municipal Administration; Service of drinking water and fuel supply, light and electrical energy; c) Communications and banks; d) Health services and public markets”.

This decree finishes stating “The ones that contravene this Decree shall be subject to the utmost legal sanction”.

POLITICAL ORGANIZATION OF THE BRAZILIAN STATE

Brazil is a Federal, Presidential, and Constitutional Republic based on a representative democracy. The federal government has three branches: executive, legislative, and judicial.

In terms of territory, the political-administrative organization of Brazil comprises the Union, the 26 States, the Federal District and 5568 municipalities, all of them autonomous in the terms of the Constitution. Therefore, Brazil has a central government, and state and municipal governments.



ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

- Federal (of the Union)
- State (of Federal States)
- Municipal
- Legislative
- Judicial

ABOUT LABOR LEGISLATION IN FORCE

Convention 151 of the International Labor Organization was ratified in the year 2010 by the National Congress of Brazil by virtue of [Legislative Decree N° 206](#) of the 7 of April 2010 and, in the year 2013, the rule was internalized by virtue of [Decree N° 7944](#), on the 6 of March 2013.

In spite of the ratification of this Convention, in Brazil there is not a legislation which regulates its concrete application. The only law project which tried to regulate collective bargaining in the Public Sector was approved by the Senate in 2015, and by the Chamber of Deputies in September 2017. However, in December of the same year, president Michel Temer vetoed it comprehensively. This arbitrary measure of the Brazilian president was maintained by the Chamber of Deputies in April 2018 which also decided to file the project definitively.

By virtue of the initiative of president Luiz Inácio Lula da Silva, the decree which establishes an interministerial Labor Group to discuss the set of rules of this Convention was signed on the 28 of August 2023. Currently, the set of rules is being analyzed by a team of governmental representatives, labor union leaders of the Public Sector, and control bodies.

On the other hand, the [Federal Constitution of Brazil](#) does not include in any of its sections the right to bargain collectively for workers of the Public Sector. For the Confederation of Public Services of Brazil [CSPB as per its Spanish acronym], member of the CLATE, the challenge is to achieve the approval of a federal law which shall rule this right in order to apply it in the whole territory.

ABOUT THE TYPES OF BARGAINING

Nowadays, in Brazil, as there is not a legislation at the federal level or at the different state levels, the signing of conventions or collective bargaining within the Public Administration is not stipulated.

As reported by the CSPB, there are some specific situations in which collective negotiations are made in some municipalities, some of them regularly and others sporadically.

Moreover, a table of bargaining has already been composed in the Federal Government which was reactivated after the election of president Lula. And there are a few cases in the States, as the example of the workers of the Legislative branch of the State of Sao Paulo which has been bargaining regularly with the union of the sector for more than 5 years.

ABOUT BARGAINING

In the previously mentioned cases, bargaining between the representatives of the Public Administration and unions mainly includes economic and social revindications.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

The Brazilian legal system has effectively granted public servants the right to freedom of association in section 39, subsection VI, of the Federal Constitution, which sets forth: “the right to freedom of association is guaranteed for civil public servants”.

Anti-union policies

Currently, Brazil neither has a specific law which regulates labor union activity. The CSPB explained that they have some case law based on judicial decisions from the constitutional guaranty of freedom of association without the interference of the State. Moreover, the Public Ministry of Labor [MPT as per its Spanish acronym] made a procedure manual (leave link in the same word) against anti-union acts.

Job Stability

While section 39 of the [Federal Constitution](#) states that: “The Union, the States, the Federal District, and the Municipalities shall establish, in their jurisdiction, a single legal regime and the degrees of the career for the officers of the direct public administration, of autonomous bodies, and of public foundations”.

Moreover, section 41 sets forth: “Servants appointed for permanent positions by virtue of a public competition are stable after three years of effective exercise”.

The right to strike

This right is guaranteed by section 37, subsection VII, of the Federal Constitution: “the right to strike shall be performed according to the terms and limits established by specific law”. Anyway, and as of today, there is not a law which regulates the exercise of the right to strike and, in most cases, the Judicial branch is the body which decides on this right with abusive practices.

POLITICAL ORGANIZATION OF THE CHILEAN STATE

The territory of the Republic of Chile is currently divided into 16 regions which, in turn, are subdivided into 56 provinces, and they are divided into 346 communes.

ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

- National
- Municipal
- Legislative
- Judicial

ABOUT LABOR LEGISLATION IN FORCE

In Chile, Convention 151 of the ILO was ratified on the 26 of December 2000, by virtue of [Decree N° 1539](#) published on that date in the official newspaper.

However, the right to bargain collectively and the right to strike are forbidden in the [Constitution of Chile](#) in its section 19 N° 16 final subdivision, which expressly sets forth: "State officers and officers of the municipalities shall not be able to go on strike".

About collective bargaining, the Chilean Constitutional Charter explains that: "...it is a worker's right, except in the cases in which the law does not allow to bargain expressly. The law shall establish the modalities of collective bargaining and the appropriate procedures to achieve a fair and peaceful solution. The law shall indicate the cases in which collective bargaining shall be subject to compulsory arbitration, which shall correspond to special courts of experts whose organization and duties shall be established in it".

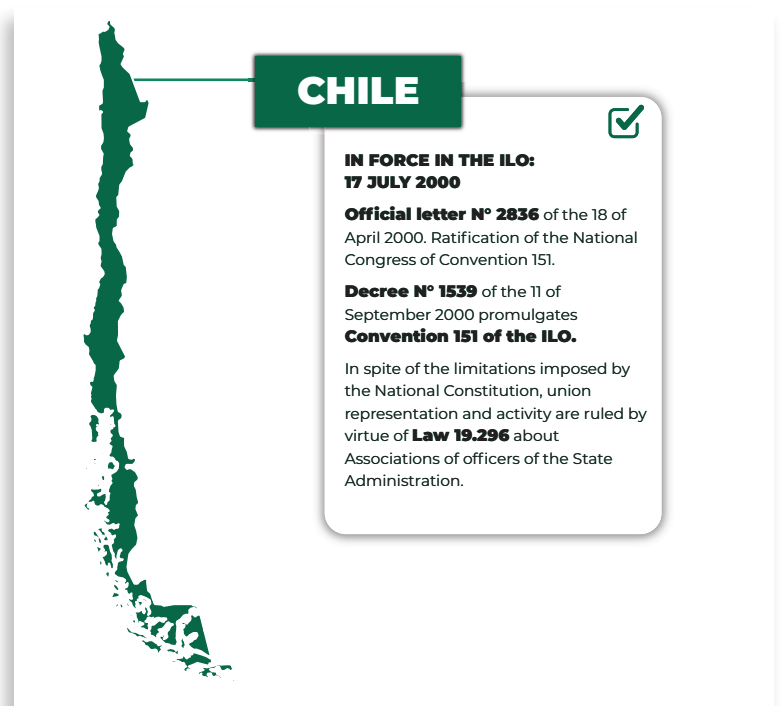
For that reason, as it was informed by the Chilean National Association of Fiscal Employees [ANEF as per its Spanish acronym], affiliated to the CLATE, that there is a permanent regulatory conflict between the Constitution in force and Conventions 87, 98, and 151 of the ILO, all of them ratified by the country.

The labor union also explained that collective bargaining in the Public Sector is widely recognized in different instances, including sectorial bargaining developed by the *Mesa del Sector Público* [Instance of Collective Bargaining in the Public Sector].

ABOUT THE TYPES OF BARGAINING

In spite of the limitations imposed on public servants, talking about facts, there is bargaining at the national, municipal, services or regional level.

However, the possibility that the parties in the Public Sector subscribe collective agreements or conventions is not legally allowed or comprised as it occurs in the private sector.



Safeguarded by Conventions 87, 98, and 151 of the ILO, there are areas of bargaining with the different authorities of the Public Sector, at the level of services, ministries, etc. In turn, case law and the set of rules expressly recognize the possibility of filing a suit not only against the Central Administration but also against the municipal administration due to anti-union practices which affect union freedom by virtue of the guardianship procedure of fundamental rights established in section 485 and the following section of the [Labor Code](#).

In light of the foregoing, the Public Sector in Chile has de facto collective bargaining, since the year 1990, which gathers together union federations and confederations, as the Association of teachers; Municipal officers; Health; Education Assistants; among other unions which constitute the 16 representations of the so-called Mesa del Sector Público (MSP) [Instance of Collective Bargaining in the Public Sector].

In this area social dialogue is maintained with the Treasury Department; Labor and Social Welfare where economical and labor aspects are agreed.

ABOUT BARGAINING

The areas where bargaining takes place within the Public Sector discuss and agree different aspects of labor relations such as: wages; general working conditions from a perspective of fundamental rights, taking into account the Decent Labor, Social Dialogue, and the importance of employment and the public function, as inspiring principles.

In the case of the associations of officers of the centralized Public Sector, as it has been already mentioned by ANEF, there are different bargaining instances at the level of public services, offices of undersecretaries, and ministries with the previously mentioned constitutional limitations.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

Collective rights of the Public Sector, internally, are recognized and set forth in [Law 19.296](#) about Associations of workers of the State Administration: “Section 1° - Workers of the State Administration, including the municipalities and of the National Congress, have the right to create, without previous authorization, the associations of workers that they shall deem convenient, with the sole condition of complying with the law and their provisions”.

Anti-union policies

Although an express regulation about anti-union or unfair practices for unionized workers of the Public Sector does not exist, by virtue of section 4 of the Convention 151 of the ILO, there is case law which has convicted public agencies for this concept, imposing to that effect sanctions to employers, under the guardianship procedure of fundamental rights, and that set of rules is stipulated in section 485 and the following ones of the Labor Code.

Job Stability

In the case of Chile, job stability is stipulated in the Administrative Statute, but only regarding permanent officers.

The ANEF recognized that “a contrata” workers [foreign workers] without prejudice to the recognition that they receive by the General Comptroller’s Office of the Republic and the Supreme Court of Justice, they are still subject to precarious working conditions as contract workers.

The right to strike

As it was previously mentioned, in the case of Chile, the strike for the Public Sector is forbidden in the Constitution, section 19 N° 16, which results in a normative antinomy with Conventions 87, 98, and 151 of the ILO which were ratified by Chile and which are in force.

However, the ANEF explained that “the strike is performed with unity of action and the strength of mobilization, as an instrument of union political pressure”.

POLITICAL ORGANIZATION OF THE COLOMBIAN STATE

Nowadays, the Republic of Colombia has 1102 municipalities, 32 departments, and 12 districts.

A municipality is a territory administratively and legally organized. It is ruled by the figure of a mayor who governs along with a municipal council; both figures are elected by popular vote.

The departments are located between the nation and the municipalities, and they are headed by a governor in charge of the autonomous administration of the resources granted by the State. They are administered by a governor and a chamber of deputies elected in popular elections. In Colombia there are 32 departments.

Districts are territories with a special administration. For their national importance, in Colombia, the cities of Barrancabermeja, Barranquilla, Buenaventura, Cartagena, Medellín, Mompox, Riohacha, Santa Marta, Turbo, Tumaco, Cali, and Bogotá have this characteristic. The provinces are intermediate territorial divisions between departments and municipalities.

Indigenous territories are indigenous local governments which occupy a part of a department or municipality. On the other hand, collective territories have been allocated to Afro-Colombian population which prevails in the Pacific region, which allowed to form associations and businesses.

ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

- National
- Departmental
- Municipal
- Of control bodies
- Legislative
- Judicial

ABOUT LABOR LEGISLATION IN FORCE

Convention 151 of the ILO was ratified by the Congress of Colombia by virtue of [Law 411](#) of the 5 of November 1997, which among other things allowed to provide a legal framework to the right of public employees to unionize, and to participate of collective bargaining for their wages and working conditions.



There, in section 7, the need of adopting “(...) appropriate measures to national conditions to encourage and foster the full development and use of bargaining procedures between competent public authorities and organizations of public employees (...)” is encompassed.

However, the application of Convention 151 has not been really effective until a [Regulatory Decree N° 160](#) was promulgated 17 years later. On the 5 of February 2014 the new regulatory rule established its aim of: “(...) regulating the procedure to bargain exclusively working conditions between competent public entities and authorities and unions of public employees”.

Moreover, on the 29 of February 2024 this decree was modified by [Decree N° 243](#), which in section 2.2.2.4.3, subsection 5, explains:

“Collective bargaining: it is the process of social dialogue whereby, on one side, the representatives of unions of public employees and, on the other, the employing entity or the competent entity bargain the agreement about working conditions and agree collective relations between the public administration and their unions”.

On the other hand, the [Political Constitution of Colombia](#), in general terms, refers to collective bargaining in its section 55: “The right of collective bargaining is guaranteed to regulate labor relations, with the exceptions stipulated by the law. The State shall promote agreements and other means to solve collective labor conflicts pacifically”.

ABOUT THE TYPES OF BARGAINING

In the Public Sector, collective bargaining allows to subscribe collective agreements at different levels: National, Sectorial, Territorial or Singular.

Bargaining shall be practiced according to Decree 243/2024 by the “Union Unified Bargaining Commission”. That Commission is regarded as “the group of bargainers delegated by labor unions, which results from the process of agreement between them, which shall be presented with the unified list of claims”.

Regarding the areas, the rule of 2024 explains that:

National area: it is the process of bargaining developed between third level and / or central unions or confederations and national federations of public employees which have unified the list and the national government.

Sectorial area: it is the process of bargaining developed between second level unions or federations, or trade unions or industrial unions which have unified the list with the entities of the different sectors of the public administration.

Territorial area: it is the process of bargaining developed between second level unions or federations, or trade unions or industrial unions which have unified the list and the departments, municipalities, and capital district.

Singular area: it is the process of bargaining developed between the public entity and first level unions of public employees existing in it. In this area, issues related to working conditions of the employees of the entity shall be bargained.

ABOUT BARGAINING

When bargaining, as the National Union of State Workers and Public Services of Colombia [UTRADEC-CGT as per its Spanish acronym], member of the CLATE explains, working conditions, even the ones of the administrative career; union guaranties; wages; social welfare; professional and union training and educational support are discussed.

Section 2.2.2.4.5. of Decree 243/2024 explains it as follows: “The following items are subject to bargaining: working conditions, and the relations between competent public entities and authorities according to the bargaining area, and labor unions of public employees for the determination of working conditions”.

Regarding wages, the rule, in its paragraph, explains that: “Talking about wages and benefits, there shall be bargaining exclusively in the national area, according to the tax and budgetary possibilities. Regarding wages increase, differential increases shall not be agreed in the national, sectorial, territorial or singular areas”.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

The same regulatory decree of collective bargaining in the public area also refers to union activity and explains: “Unions of public employees are first level, second level, and third level unions which unionize public employees. They have the right to bargain collectively and, therefore, they are capable and eligible to bargain, labor unions whose members are public employees”.

In this context, the UTRADEC recognizes that although still with certain restrictions, there are union permits and licenses for the representatives of public servants of Colombia at the different levels.

Anti-union policies

Colombian legal system includes different protection mechanisms of public officers / employees against anti-union discriminatory acts. The right to job security for union representatives is established in the Political Constitution, section 39, and also in the [Código Sustantivo del Trabajo](#) [Substantive Labor Code], section 405 and subsequent sections of Chapter VIII about the right to job security for union representatives.

Job stability

Regarding job stability guaranties, UTRADEC informs that it is explained by “the administrative career whereby the so-called statutory merit in topics as the so-called *reten social* [job protection and stability] pre-pensioners; parents who are the head of the family; disabled persons or persons with catastrophic diseases, whereby protection mechanisms.

The right to strike

Although Colombian law recognized this right, UTRADEC recognizes that “it is not absolute since the legislation forbids striking in the so-called essential public services”.

The problem for labor unions of public servants is that the exercise of the right to strike is forbidden and the constitutional concept of essential public services is not defined by the law.

POLITICAL ORGANIZATION OF THE COSTA RICAN STATE

It is a democratic, free, independent, multiethnic, and pluricultural Republic. The territory, to the general effects of public administration, is divided into seven (7) provinces. In turn, the provinces are subdivided into 84 cantons, and they are divided into 488 districts.

The municipalities of each canton, or local governments, are headed by mayors who are elected every four years in general elections, and a municipal council.



ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

- Workers of the three branches: Executive, Legislative, and Judicial
- Of autonomous and semiautonomous institutions
- Of municipalities
- Of public enterprises

ABOUT LABOR LEGISLATION IN FORCE

In Costa Rica, Convention 151 of the ILO has not been ratified. On the other hand, Convention 98 of the ILO about the right to unionize and bargain collectively was ratified by the country and informed to the ILO on the 2 of June 1960.

In the [Political Constitution](#) of Costa Rica, Section 62, labor collective bargaining is given legal force, although it does not specify if it refers to the public or private sector: "Collective Labor Conventions which pursuant to the law are entered into employers or labor unions of workers legally organized shall have legal force".

On the other hand, the [Labor Code](#), in its third chapter, makes reference to the collective bargaining instance from section 54 to 65. SECTION 54.- Collective Convention is the one that is entered into between one or among several labor unions of workers, and one or several employers, or one or several labor unions of employers, with the aim of regulating working conditions and the other aspects related to it. The collective convention has the nature of a professional law and all the existing individual or collective agreements or the ones subsequently entered into between enterprises, industries or regions involved shall be adjusted to its rules.

Recently, Costa Rica has approved two laws which may limit this right for workers in the Public Sector.

- [Law 9635 Law of Public Finances Strengthening](#). It forbids bargaining in collective conventions of any topic related to financial resources. For example: wages; union licenses, grants, administrative career, exclusive dedication, prohibition, etc.

- [Law 10.159 Law of Public](#) Employment Framework. This law practically limits collective bargaining to its minimum expression, violating the Political Constitution, the Labor Code and international conventions of the ILO ratified by Costa Rica.

In chapter X “Other provisions”, section 43 about collective bargaining, explains that “whereby collective bargaining new obligations or rights shall not be created and working conditions related to the following items shall not be modified: a) Wages or remunerations, and change or modify aspects referring to the wage scale or components of the global wage scale; b) The creation of incentives, compensations or wage bonuses; c) Issues in which an additional distribution of resources which affect the national budget or the one of a public institution shall be made, whereby expenses which are not adjusted to the principles of reasonability and proportionality developed by the Constitutional Room of the Supreme Court of Justice; d) Rules of a prohibitive nature included in this law; e) The creation of new areas”.

Moreover, it proposes that: “Regarding rules that due to their nature or impact on the principle of budgetary legality require legislative or regulatory approval, their efficiency shall be conditioned to the inclusion in the budget law or in the respective regulations, the same as the approval on the part of the General Comptroller’s Office of the Republic when it is affected by the budgets of institutions, whose ordinary and extraordinary budgets or budget modifications require the approval of this latter entity”.

ABOUT THE TYPES OF BARGAINING

In Costa Rica, bargaining of Collective Conventions is practiced by institution or body.

The National Federation of Public Workers [FENOTRAP as per its Spanish acronym], member of the CLATE, informed that nowadays there are different collective conventions signed in: Municipalities; agricultural Public Sector; *Compañía Nacional de Fuerza y Luz* [National Company of Electricity Services] state banks; Aqueducts and Sewerage System; Public Universities; State Insurance sector (National Institute of Insurance); the *Benemérito Cuerpo de Bomberos de Costa Rica* [Honorable Fire Department of Costa Rica] and the education sector, among others.

Moreover, the union explained that in the country other bargaining mechanisms also exist.

For example, in the Costa Rican *Caja de Seguro Social* [Institution of Social Security] there is the so-called set of [rules of labor relations](#). There, and according to the introductory text of the rule, “the Costa Rican *Caja de Seguro Social* [Institution of Social Security] proposes to maintain an appropriate regulatory framework in the management of labor relations with its workers and labor unions”.

Other instances also exist, for example “the conciliation between employers and labor unions convened by the Ministry of Labor” or “Bipartite and Tripartite bargaining about different topics”.

ABOUT BARGAINING

Those collective conventions address aspects of labor relations as: wages; freedom of association; union licenses; gender policies; occupational health; provision of office and equipment for the union; job stability for workers; holidays; study grants; special licenses for marriage and birth of children; working hours, among others.

Those conventions encompass all workers who work for an institution, and it may be a ministry or an institution within the state sector.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

All the information referred to the right to unionize and labor unions is included in the Labor Code, Second Chapter, from section 339 to 362.

Anti-union policies

In institutions where there is a Collective Convention duly bargained and officially recognized by the Ministry of Labor, it is guaranteed to the leaders and public officers the regular development of their role and union activity. And in the cases in which this right is not obeyed, the FENOTRAP explains that “the appropriate complaints are made”.

In the case of the Treasury Department, for example, there is not a collective convention, but it has cooperation agreements which allow some union activities, which in some cases are very restrictive.

In other institutions and ministries there are no conventions or cooperation agreements. Therefore, union activity is even more difficult.

Job stability

Job stability in the Public Sector is addressed not only in the Political Constitution but also in the Labor Code and in the areas where there is an approved and officially recognized collective convention.

The right to strike

FENOTRAP explained that in January 2020 [Law N° 9808](#) called “Law to provide legal security about the strike and its procedures” was approved. According to the labor union of public servants of Costa Rica “this law practically restricts workers from the right to participate of strikes, since with this set of rules almost all public servants are declared essential and it shall be forbidden for all these workers to participate in the strikes”.

POLITICAL ORGANIZATION OF THE CUBAN STATE

The Cuban territory is divided into 15 provinces and 167 municipalities. Moreover, there is a special municipality centrally administered; the *Isla de la Juventud* [Island of Youth].

According to the Constitution of the Republic of Cuba of 2019, the National Assembly of the Popular Power is the supreme body of the State power, and it is the only body with constituent and legislative power in the Republic. In the exercise of its duties, the Assembly elects the President and Vice-president of the Republic for a period of five years.

In each province a Provincial Government of the Popular Power rules. It is composed by a Governor and a Provincial Council. Meanwhile, in the municipalities, the Municipal Assembly of the Popular Power, whose members are elected by virtue of a free, equal, and secret vote for five years, is the superior body of the State power in its demarcation and, consequently, it is vested with the highest authority in its territory.

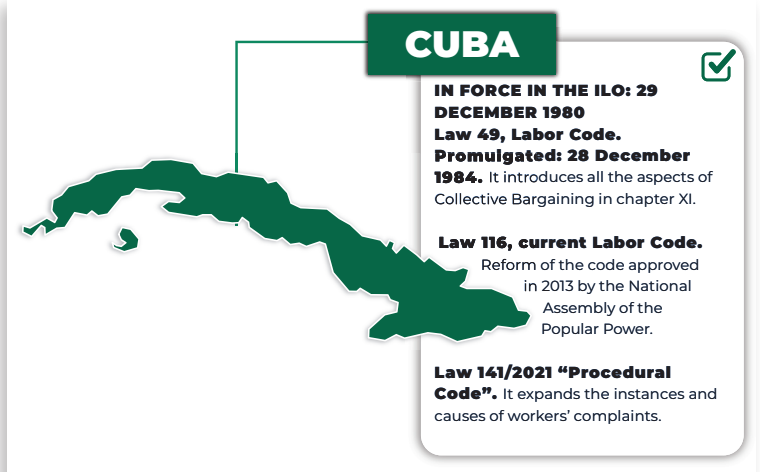
ABOUT LABOR LEGISLATION IN FORCE

In Cuba, labor relations in the Public Administration had been initially regulated after the ratification of Convention 151 of the ILO in the year 1980 by virtue of [Law 49](#) named Labor Code, dated on the 28 of December 1984, in which the general working conditions of workers of the Public Administration were established, as well as their rights and bargaining scenarios of their organizations with employers' organizations and ordinary procedures to solve individual and collective conflicts.

In the year 2013, by virtue of [Law 116](#), a new Labor Code was approved. It perfected the mechanisms to allow, in new scenarios, a greater extent in the exercise of workers' rights of this area in all the aspects of labor relations, not only individual but also collective, fostering different collective bargaining procedures for the establishment of working conditions essentially at the level of each labor center between the organizations of workers and employers, and workers' rights related to labor and the procedures to solve individual and collective conflicts were ratified.

Individual conflicts are initially submitted to a prejudicial body constituted in each center and subsequently they may be solved judicially; the latter by virtue of the approval of [Law 141](#), Procedural Code, dated on the 28 of October 2021, was modified since workers' claim instances and causes were expanded and rights were added, according to the provisions of the [Constitution of the Republic](#) of 2019.

Collective conflicts are initially submitted by virtue of a settlement procedure which is exercised between the organizations of workers and their employers at all levels, and in case a solution is not achieved, a solution may be found in the National Office of Labor Inspection in an arbitration proceeding.



POLITICAL ORGANIZATION OF THE STATE OF CURACAO

Curacao is a country which constitutes the Kingdom of Netherlands, and which has a political framework based on a representative parliamentary democracy, and for that reason, the Prime Minister is the head of government in a multiparty system.

Territorially, it only has a city, the capital city, Willemstad. Moreover, this tropical island of the Caribbean is initially divided into two: Bandariba and Bandabou. The first one is the eastern part of the island, and the second one is mainly the western part.



ABOUT LABOR LEGISLATION IN FORCE

Convention 151 of the ILO was ratified in Curacao in the year 2016.

In this context, the Centralized Organized Dialogue on Public Officers Affairs [DCOAFP as per its Spanish acronym] was established. It constitutes a fundamental resource in order to bargain and for the dialogue about affairs of general interest related to the legal situation of public officers.

The DCOAFP is established in the National Ordinance of Organized Dialogue on Public Officers Affairs (P.B. 2008, N° 70).

ABOUT THE TYPES OF BARGAINING

The P.B. 2008, N° 70 is vital in order to guarantee the officers' rights and duties in Curacao whereby an organized and representative dialogue platform. By means of procedures established and the participation of representative labor unions, consensus and a fair treatment of all the matters related to officers' legal situation is sought.

This instance gathers monthly, as long as there are enough matters to discuss in the agenda. The president may call for additional meetings, at the request of any party. The parties are convoked in writing, and the agenda and relevant documents are sent to them in advance.

ABOUT BARGAINING

Bargaining started within the DCOAFP includes matters of general interest related to the legal situation of public servants in the country. These negotiations are part of a general framework for the whole Public Sector. In other cases, as state areas or enterprises, workers have sectorial collective conventions.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

The legal framework of Curacao offers some protection mechanisms for public officers which perform union activity, and it derives mainly from international treaties and general labor laws.

As regards International Treaties of the International Labor Organization, the country ratifies Convention N° 98 about the right to bargain collectively and protection against union discrimination, a rule that provides important guaranties for workers to join to labor unions without the fear of retaliation.

At the national level, the Statute of Curacao recognizes the right to freedom of association which implicitly protects against discrimination as a result of the unionization. This means that public officers have the right to unionize and participate in union activities without threatening their careers or job security. Moreover, in general, labor legislation provides protection against unfair treatment or dismissal for discriminatory reasons.

Anti-union policies

In general terms, in the country, the right of unions to perform their activities as usual is recognized and facilitated, including the organizations which join and represent public officers and employees. Although a specific law which expressly forces to provide advantages does not exist, the regulatory framework which rules the freedom of association and collective bargaining allows and supports union activity within the Public Sector.

The set of rules is based on the respect towards international conventions of the International Labor Organization, especially Convention N° 87 about freedom of association and Convention N° 98 about the right to bargain collectively. These treaties foster the need of facilitating the operation of unions for workers to exercise their rights without obstacles.

Moreover, at a practical level, it is usual that governmental authorities and public employees' unions agree certain advantages which allow the development of union activities, as the time to participate in bargaining, trainings, and other events related to union life. However, these agreements tend to depend on specific bargaining between unions and employers of the Public Sector, rather than on a legal obligation detailed in the national legislation.

Job stability

Although the [Constitution of Curacao](#) does not directly guarantee job stability, it sets forth general principles of justice, social protection, and labor rights, which influence the labor set of rules which regulates public employment.

The right to strike

In the legislation of Curacao there is not a specific law which rules the right to strike of public officers, but this right derives in a broader sense from the labor legislation and the acknowledgement of international treaties which recognize the workers' right, including the ones of the Public Sector, to perform and call for a strike as long as certain procedures and restrictions are followed.

Moreover, the right to strike may be derived from the right to freedom of association and the right to bargain collectively, recognized in the Statute of Curacao. This Statute, which may be compared to a constitution, guarantees fundamental rights and liberties, including the right to associate and meet. Public officers' unions, as the ones which represent employees of the educative sector and other public employees, exercise these fundamental rights to organize strikes as long as they comply with the legal procedures and corresponding restrictions.

POLITICAL ORGANIZATION OF THE ECUADORIAN STATE

Ecuador is a “unitarian and decentralized” Republic according to the National Constitution of 2008, which also defines the political-administrative division of the country. It is composed by 24 provinces, 221 cantons, and 1499 parishes, which constitute the different levels of the territorial organization of the Republic.

ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

- Public servants in Ministries and other institutions of the national State
- Of Autonomous Decentralized Governments, as Prefectures, Municipalities and Local Rural Councils
- Of Public Enterprises, as “Petroecuador”

ABOUT LABOR LEGISLATION IN FORCE.

Convention 151 of the ILO has not been ratified in Ecuador.

The National Constitution of this country partially includes the right to bargain collectively for the Public Sector.

The [Ecuadorian Constitutional Charter](#), in force and effect in the country since 2008, limits freedom of association for the Public Sector. In its section 326, subsection 9, it stipulates “to all effects of labor relations in State institutions, the labor sector shall be represented by only one organization”.

About collective bargaining in particular, subsection 13 of the same section, sets forth that: “collective hiring between workers and employers shall be guaranteed with the exceptions established by law”. Among the law exceptions there is the division between workers and servants; the former work in the private and public sector, whereas the latter only in the public sector (administrative personnel).

The difference lies in the fact that workers of the Public Sector are ruled by the [Labor Code](#) and /or secondary rules created by the Ministry of Labor for the private sector. They are able to associate and bargain collectively as long as they “respect” the bargaining ceilings which have been fixed for that sector since 2015 (maximum wages, benefits, food, transport, workwear, etc.).

As regards labor relations of “administrative servants”, they are ruled by the [Organic Law of the Public Service](#) [LOSEP as per its Spanish acronym] and other complementary set of rules which regulate specific activity branches as health or education.



For them, the possibility of unionization is almost nonexistent¹ and collective bargaining is neither recognized in rules nor in practice.

In fact, the LOSEP does not mention collective bargaining among the duties of the Committee:

Duties of the committee. -The Committee of public servants shall have the following duties:

1. Take part in the procedures of social dialogue and problem-solving derived from it as well as in the strike declaration, in the terms established in the Constitution of the Republic and this Law;
2. Look after the compliance of the labor set of rules;
3. Report and justify their acts to public servants;
4. Contribute with the improvement and innovation in institutional management;
5. Declare strikes according to the Constitution of the Republic and this Law; and,
6. All others which correspond according to the Constitution of the Republic and this Law.

Conversely, it enables social dialogue:

Social dialogue. -According to subsection 10 of section 326 of the Constitution of the Republic, the mechanism of social dialogue is established. Whereby this mechanism the Committee of public servants and the highest authority of the respective public institution or the person that it appoints in its representation shall address topics related to the following subjects:

1. Training and technical development programs towards excellence;
2. Conditions which tend to improve the work environment and area;
3. Security and health at work and prevention of work risks; and,
4. Institutional policies of work inclusion of vulnerable groups and preferential attention such as persons with disabilities, indigenous people and people who belong to indigenous nationalities, Afro-Ecuadorian and Montubio people as well as returned migrants and topics of gender equity.

ABOUT THE TYPES OF BARGAINING

In the Ecuadorian Public Sector, there are only collective agreements by institution for workers. These agreements have been entered into in the Central Public Administration (Presidency), Decentralized (Municipalities and Prefectures) and in Public Enterprises (water, light, transport, etc.).

As regards to the existence of other bargaining areas with the employers, it is important to inform that there is only one: the National Council of Labor and Wages, tripartite body which assembles every year in order to determine the general and sectorial basic wage. This Council decides the wage increase based on inflation, but only for workers of the private and public sector.

In this Council public servants are not represented.

¹ LOSEP: Section ...- Committee of Public Servants. According to subsection 9 of section 326 of the Constitution of the Republic, for the exercise of the right to unionize for the defense of their rights, for the improvement of the public services, and the strike, public servants shall be represented by a committee whose members represent at least one half plus one of all the public servants of the same institution. NOTE: the section does not have a number, it is a reform which was added in 2017. Before that the right to unionize was not recognized for public servants since 2008.

ABOUT BARGAINING

Workers of the Public Sector bargain about rights in general, but with the ceilings determined in the Ministerial Agreement MDT-2015-0054. The agreement defines more than 400 job positions of workers and fixes the maximum wage. The lowest amount shall be USD 561 monthly. This agreement has not been modified since 2015, therefore, there has not been a wage growth above the ceilings.

Workers of the public sector only bargain by institution. There are no possibilities of sectorial bargaining, as a result of the restrictions imposed by the Government.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization and anti-union policies

For public servants, the LOSEP sets forth:

Guarantee against discrimination. -All acts of discrimination against public servants related to their work shall be forbidden due to the exercise of their right to unionize. Specially, it is forbidden to condition the work of public servants by means of not allowing them to join a labor union of public servants or deciding to stop being part of it; and dismiss public servants or adversely affect them in any other way, as a result of their unionization to the organization of public servants or as a result of their participation in the regular activities of the organization.

However, freedom of association is not usually exercised due to the difficulties as regards the minimum number of servants, the little job stability, and the restriction of persons who are able to constitute the Committee². According to the Ministry of Labor, up to 2022, only 3 committees of public servants were registered nationally. The Ecuadorian Government has not shown current figures.

Job stability

Nowadays, for Ecuadorian public servants, job stability is not guaranteed by virtue of laws or regulations in force.

According to the LOSEP, only the ones who are permanently appointed generate stability. There is no updated data about how many people have this type of appointments and how many have other appointments that “do not generate stability”.

The right to strike

This right is not guaranteed in Ecuador for public servants.

In fact, this right is only recognized where the stagnation of public services is not forbidden; and, the stagnation is forbidden almost in all sectors:

² LOSEP: “Members of the Armed Forces and of the National Police, who are active, are excluded from this right; as well as the authorities of popular election, appointing authorities of State institutions, public servants appointed to fixed-term positions by law, public servants with discretionary appointment and removal, members of collegiate bodies, and public servants under temporary services agreements”. That is to say, only the ones who are appointed definitively (a few) may be able to unionize.

Prohibition of public services stoppage. -Pursuant to subsection 15 of section 326 of the Constitution of the Republic, any kind of stoppage of the public services of health, environmental sanitation, education, justice, firefighters, social security, electrical energy, drinking water and sewage system, hydrocarbon production, processing, transport and fuel distribution, public transportation, post and telecommunications is forbidden. This stoppage prohibition includes administrative services.

Regarding minimum services:

Minimum services. -Within forty-eight (48) hours after the State institution receives the notification about the declaration of strike, the parties shall agree the modality of the provision of minimum services which shall be maintained during the strike with the permanence at work of a number of servants not less than the percentage of the payroll established to that effect by the Ministry of Labor by virtue of a Ministerial Agreement³, in order to satisfy the essential needs of the users and recipients of public services and safeguard the facilities, the assets and the properties of the State institution.

Upon failure to reach an agreement, the modality of provision of minimum services shall be determined by the Ministry of Labor which, to that effect, may ask in each case the questions that it considers necessary to specialized bodies.

In case of non-compliance of the provision of minimum services, the Ministry of Labor may order the resumption of activities, if necessary, with substitute personnel. Servants who refuse to render their services, shall not receive their remunerations of the days that they did not work, without prejudice of initiating the respective summary proceedings due to the violation of the prohibition of work stoppage.

The perpetrators shall be held civilly and criminally responsible for the damages produced due to the noncompliance mentioned in this section, against persons or properties.

The causes of strikes are limited and do not reach their aim

Causes of strikes. -A strike shall only be declared in the following cases:

1. When the State institution incurs in labor intermediation and outsourcing, forbidden by the Constitution of the Republic and the law;
2. When the system of employment per hours is applied, forbidden by the Constitution of the Republic;
3. When privatization of public services is intended, forbidden by the Constitution of the Republic and the law;
4. When the employing authority is guilty of contempt in those cases of ineffective stoppage declared in compliance with the law;
5. When the respective collective conflict is not solved at the stage of compulsory mediation; and,
6. As a result of lack of payment of the unified monthly remuneration for more than three consecutive months.

³ The ministerial agreement has not been issued.

POLITICAL ORGANIZATION OF THE SALVADORAN STATE

The territory of El Salvador is divided into 14 subnational primary entities named departments. The departments are ruled by a departmental governor appointed by the president (section 200 of the Constitution of the Republic).

The departments of El Salvador are subdivided into municipalities. From the 13 of June 2023, when the Legislative Assembly passed the Special Law for the municipal restructuration, the municipalities were cut down from 262 to 44. This new structure began to operate in the Central American country from the 1 of May 2024, when the new local authorities came to power.

The Legislative Assembly has also been subject to modifications, and from this date, it is composed by 60 legislators who, as the mayors, remain in the office for the period of three years.

ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

In this context, workers of the Salvadoran State are organized as follows:

- National (of Ministries and other areas of the central government)
- Municipal
- Legislative (of the Legislative Assembly)
- Judicial
- Employees of autonomous institutions

ABOUT LABOR LEGISLATION IN FORCE

The Republic of El Salvador ratified Convention 151 of the International Labor Organization about the right to bargain collectively in the Public Sector in the year 2006.

By virtue of Executive Agreement N° 581 and Legislative Decree N° 78, promulgated on the 24 of August 2006, and published in the Official Bulletin on the 29 of August of the same year, the Convention was ratified and became operative in the ILO from the 6 of September of this year.

That year, section 47 of the [National Constitution](#) was modified, and it expressed: "Employers and private workers, without discrimination on the basis of nationality, sex, race, religion, or political ideas, and regardless their activity or work nature that they perform, have the right to unionize freely in order to defend their respective interests, forming professional associations or unions. Workers of autonomous official institutions, public officers and employees, and municipal employees shall have the same right".

And it adds:

"Members of a union management shall be born in El Salvador, and during the period of their election and office, and up to after one year they cease to hold office they shall not be



dismissed, disciplinarily suspended, transferred or adversely affected in their working conditions unless it is by virtue of a fair cause previously qualified by the competent authority. Moreover, workers and employees which are mentioned in the last part of the first subsection of this section are granted the right to bargain collectively pursuant to the law. Collective agreements shall take effect the first day of the tax year following the one of its celebrations. A special law shall regulate the aspects related to this subject”.

This constitutional reform ratifies the three Conventions of the ILO (87, 98, and 151) which shall allow Salvadoran public servants to begin the process of forming unions in the different labor areas and have a formal representation for the bargaining of collective agreements.

As the representatives of the General Association of Public and Municipal Employees of El Salvador [AGEPYM as per its Spanish acronym], labor union member of the CLATE, state it was not until the year 2010 that in the different strata of the Public Administration, not only at the national level but also at the municipalities level, workers’ organizations began to take a formal shape. And then collective agreements were entered into in some areas of the central Government.

Whereas workers of Autonomous State Institutions, previously mentioned, work under the regime of the [Labor Code](#) and, therefore, have the right to unionization and bargain their collective agreements through their union representative, working conditions of the rest of the public servants of national or municipal State bodies are reflected in the so-called [Ley de Servicio Civil](#) [Civil Service Law] passed in 1961 and which has been subject to different reforms during the years.

This law, after the ratification of international conventions and the constitutional reform of the year 2006, was modified and extended its sections, and by doing so, it regulates union activity and participation when bargaining collective agreements for state workers.

Thus, new chapters are added to the previously mentioned law:

- [CHAPTER XI](#) – Collective Labor Right – Article I – “About Unions” And Article II “Collective Labor Agreement”.

- [CHAPTER XII](#) – About Collective Labor Conflicts – Article I “Preliminary Provisions” – Article II “About Legal Conflicts” – Article III “About The Procedure In Economical Collective Conflicts Or Conflicts Of Interest”.

In section 160, the *Ley de Servicio Civil* [Civil Service Law] specifies that: “Legal provisions contained in this Decree shall come into effect two months after the date in which the ratifications of International Conventions number 87, 98, 135, and 151 of the International Labor Organization have been registered by the General Director of that Organization, after their publication in the Official Newspaper and of these reforms”.

Therefore, labor unions in the Salvadorean Public Sector and the right to bargain collectively of public servants of this country was legalized.

ABOUT THE TYPES OF BARGAINING

Workers of Autonomous State Institutions are not encompassed by the *Ley de Servicio Civil* [Civil Service Law], they are encompassed by the Labor Code. Therefore, they enjoy the right to unionize and enter into collective agreements a long time before the rest of the public servants.

However, from the 81 autonomous institutions which currently operate only 5 of them have entered into a collective agreement at some time. It is worth mentioning that in many of these bodies there is still no union to represent the public servants who work there and that, in other cases, they have changed their name and unions which represented employees of this area have declined in prominence.

Collective agreements have been entered into in these five institutions, and only in two of them these agreements continue in force and effect:

- *Centro nacional de registros* (CNR) [National Centre of Records], without force and effect.
- *Instituto Salvadoreño de Pensiones* (ISP) [Salvadoran Institute of Pensions], former INPEP [*Instituto Nacional de Pensiones de los Empleados Públicos* - National Institution of Pensions for Public Employees], without force and effect
- *Fondo social para la vivienda* (FSV) [Mortgage Financing Company for Housing], without force and effect
- *Comisión Ejecutiva Hidroeléctrica del Río Lempa* (CEL) [Lempa River Hydroelectric Executive Commission], in force and effect
- *Comisión Ejecutiva Portuaria Autónoma* (CEPA) [Autonomous Port Executive Commission], in force and effect

As regards public servants who are encompassed within the *Ley de Servicio Civil* [Civil Service Law], it was only after the year 2010 that they began to enter into collective agreements in some areas of the central Government.

AGEPYM explained that one of the first agreements signed, in the year 2011, was the one of the Treasury Department, and that after that, other agreements were signed such as the ones of the Ministry of Economy and Agriculture and Farming respectively.

However, the union informed that nowadays many of these agreements have not been renewed. And, on the other hand, many of the Autonomous State Institutions have disappeared or changed their names. And, although in many cases a portion of the payroll is part of the new system, the unions which represented them have disappeared.

An example of this is the situation that took place with the former National Institute of Pensions of Public Employees [INPEP as per its Spanish acronym], which ceased to exist in December 2022 and the union of the sector and the collective agreement which had been signed lost their legal status and force.

And although the 50% of the employees of the former INPEP nowadays are part of the payroll of the new Salvadoran Institute of Pensions [ISP as per its Spanish acronym], and the duties of

the entity are the same, there is not a union which represents workers and they do not have a collective agreement which rules labor relations.

As regards the municipal sector, AGEPYM informed that the collective bargaining situation is the same than for the employees of the central government. Although the law rules, collective agreements are not entered into. And, in addition, after the last reform, many municipalities are going to disappear, the same as their mayors, officers and municipal councils.

The Special Law for the Municipal Restructuration reduced the municipalities of the country from 262 to 44. Many unions which represented municipal workers shall lose their legal status and the collective agreements which had been entered into shall not be legally valid anymore.

Some municipal union federations have begun to debate about this new stage and they analyze the new ways and organizations to represent workers and defend their right to bargain collectively before the new municipal authority.

ABOUT BARGAINING

Within the municipal sector, in El Salvador, collective agreements have not been entered into, therefore, the negotiations some unions have reached with the mayor do not have that status.

They are bargained per municipality where many times there is more than a union, and that situation represents a constraint at the time of reaching an agreement to benefit all workers. Some aspects are bargained with the mayor or with the Municipal Council, for example wage growth, special bonuses or baskets. But it is about direct agreements between the parties that fail to be legally registered and fail to obtain the status of a collective agreement.

In this respect, AGEPYM provided an example of this situation in the area of municipalities. Workers who are in charge of picking up solid waste bargain with the mayor the provision of work uniforms and other instruments that allow them to develop their work in a better way, but as they are not part of a collective agreement, many times, these basic needs for their employment are not met or implemented.

Meanwhile, this 2024, in the central Government only one collective agreement has been entered into in the Treasury Department, although it has not been registered yet and it has not come into effect. They are mainly oriented to the delivery of bonuses, because since 2010 as of today in El Salvador there have not been wage growths for public servants.

Agreements mainly refer to two aspects: one economical and the other one about labor relations. As regards the economical aspect, wage bonuses, basic food baskets, workwear, transport, financial aid for students and / or special health insurances to use in private hospitals are included in the bargaining process.

As regards labor relations, agreements include arrangements about relations based on respect between workers and their immediate supervisor, respect of hierarchies and laws and conventions in force as regards healthy working conditions and rejection to harassment and workplace violence.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

Salvadorean public servants, and especially those who work at municipalities, face a big problem at the time of proceeding with the bargaining of collective agreements: the dispersion in union representation.

AGEPYM explained that this difficulty is even favored by the employers' sector which assumes more power in face of the diverse representation of its employees. An example given by the union which is a member of the CLATE and which is part of this report, is the situation that takes place in the municipality of San Salvador where the capital city of the Republic is also located. The number of labor unions grew to 18 different labor unions with their respective leaderships.

In this regard, the case of San José Guayabal is recorded. It is a municipality of the department of Cuscatlán where 128 employees work, and it has 2 labor unions which represent them. It is the workers' responsibility to find mechanisms which allow them to reach unity of effort in order to defend their rights contemplated in the legislation in force. Union dispersion, added to the scarce will on the part of state authorities to convoke organizations generate that, nowadays, in El Salvador, collective agreements are not entered into, in spite of the fact that Convention 151 has been ratified since 2006.

Anti-union policies

Workers' right to unionize is contemplated in the National Constitution. And although it does not mention "unionization", the Constitutional Charter talks about "organization". Therefore, it is the framework law which not only the employers of the private sector but also officers and governments of the public sector should respect.

Moreover, in the Labor Code which rules private activity it is expressed that workers' representatives or members of a union board of directors shall not be dismissed during their office and up to 3 years after its completion. AGEPYM explains that since 2010 unionists have not been persecuted, but they do not enjoy all the rights.

However, and although the union activity is legislated, there are cases of abuse on the part of state authorities. As the AGEPYM explained, there have been concrete cases in which leaders have been subject to persecutions and dismissal. For example, in the Ministry of Culture, where the members of the boards of directors of the unions which operated there have been dismissed, and as there was not union representation to sign the bargaining, the force of the collective agreement has been lost.

The same occurred in the Ministry of Public Work. There were three unions, and they represented the 50% + 1 of the employees, which allowed them collective representation to be able to bargain. But in December 2022, the three general secretaries of each of these unions were dismissed, and collective bargaining lost force and effect in this Ministry.

Job stability

Within the Public Sector, the activity is ruled by the *Ley de Servicio Civil* [Civil Service Law] which sets forth all the aspects related to the administrative career. Job stability is guaranteed for Salvadorean public employees, although there are some cases of dismissal as we mentioned in the previous item.

The right to strike

Although the right to strike is guaranteed and legislated, Salvadorean workers assume different combat modalities in defense of their rights. AGEPYM informed that whereas in wartimes (1979 – 1992) the doors of institutions were closed and strikes were total, nowadays, a modality of tasks removal is put into practice, but workers are maintained in their job positions.

POLITICAL ORGANIZATION OF THE GUATEMALAN STATE

According to the Political Constitution of Guatemala of 1985, reformed in 1993, this country is composed as a presidential, democratic, and representative republic with three branches: the Executive branch, the Legislative branch, and the Judicial branch.

The territory of the Republic is divided for its administration into 22 departments, and they are divided into 340 municipalities. The departments are headed by the governor who is appointed by the President of the Republic. In the municipalities, the mayor is elected by the popular vote every 4 years, the same as municipal councils.

The Congress of the Republic of Guatemala is composed by 158 deputies of the different electoral districts for a management period of four years, and they may be reelected by virtue of universal and secret suffrage.

ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

- National
- Municipal
- Of autonomous or decentralized entities
- Legislative
- Judicial

ABOUT LABOR LEGISLATION IN FORCE

The State of Guatemala has not ratified Convention 151 of the International Labor Organization yet.

There are other labor conventions of the ILO which were ratified: Convention 87 about freedom of association and the protection of the right to unionize, year 1948; Convention 98 about the right to unionize and collective bargaining, year 1949.

The [National Constitution](#) of the Republic of Guatemala, in its section 116, recognizes state workers' right to unionize. And in its section 106, it sets forth the State duty of fostering and protecting collective bargaining.

The previously mentioned section 116 also recognizes the right to strike of those workers although it states that it only shall be exercised as it is prescribed the law of the subject. To that effect, in the year 1986, the Law of Unionization and regulation of State workers' strikes comes into force, Decree 71-86 which was reformed by Decree 35-86.



ABOUT THE TYPES OF BARGAINING

Conventions which are currently applied to the Public Sector in Guatemala, are mostly the collective agreements of enterprise, that is to say, they are entered into between a State body, Ministry, Autonomous or Decentralized Entity and workers' representatives. In the Collective Agreement, working conditions for that certain sector are set forth.

ABOUT BARGAINING

The aspects discussed in the bargaining areas are:

- Relations between the union and the employing entity, force and effect of the agreement, and scope of application.
- Aspects related to the entity administration: schedules, workplaces, work teams, labor relations boards to solve conflicts which arise as a result of the labor relation, licenses, social services.
- Wages, bonuses, premiums, and financial aid.
- Holidays, licenses, celebrations and other similar items.

According to section 50 of the [Labor Code](#), the provisions of the collective agreement about working conditions have the force of law for:

- a) The parties who have signed it.
- b) All the persons who, when the agreement comes into force, are working in the enterprise or production center to which it makes reference and those workers are favored and even when they are not members of the labor union or unions which have entered into it; and
- c) The ones that shall enter into individual or collective agreements in the future within the same enterprise or production center affected by the agreement in the concept that those agreements shall not be entered into in less favorable conditions for workers than the ones of the collective agreement.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

Although the legislation does not establish it like that, it protects workers' representatives who are duly registered in the respective record.

Subsection D of section 223 of the Labor Code sets forth that: "The members of the Executive Committee enjoy irremovability in the job that they perform during their offices and up to twelve months after its completion. Those members shall not be dismissed during that period unless they incur in a fair dismissal cause, duly demonstrated by the employer in plenary suit before a competent labor court".

The benefit set forth in this subsection corresponds, in the same way, to all the members of the Provisional Executive Committee of a union in the process of organization. To be entitled to that benefit, they shall inform their election to the *Inspección General de Trabajo* [Agency of Labor Inspection], and from that moment they shall enjoy this right.

Anti-union policies

Although the Political Constitution of the Republic recognizes the right to associate (section 34), and the State duty of fostering and protecting collective bargaining (section 106), it does not set forth the way in which the State shall guarantee these rights.

However, as complementary source, what item 6 and 7 of subsection O of section 61 of the Labor Code sets forth to that effect is applied: “employers are bound to grant leaves on full pay, to wit: 6) For the development of a union role, as long as it is confined to the members of the Executive Committee and it does not exceed six days in the same calendar month for each of them. Notwithstanding the previously mentioned, employers shall grant non-paid leaves of absence to the members of the cited Executive Committee which request it, during the necessary time to comply with the responsibilities of their positions. 7) In the rest of the cases specifically contemplated in the convention or collective agreement of working conditions”.

The Labor Code is an additional source for the case of the right to unionize and collective bargaining, according to section 2 of the Unionization Law and regulation of the strike of State workers, which sets forth that for the constitution and organization of decentralized and autonomous State labor unions as well as for the regulation of their operation and exercise of their rights, State workers shall be subject to the provisions of the Labor Code in the aspects that is it applicable and if it does not contradict constitutional provisions.

Job stability

Although the Political Constitution of the Republic of Guatemala is not recognized as such, it sets forth in subsection O of section 102 the employer’s duty of indemnifying employees with a month of wage per year of continued service in the face of a wrongful discharge or of a forced resignation, as long as the law does not establish other system more convenient which confers her / him better benefits.

However, this Constitutional Charter, in section 110 sets forth that State workers, when they are dismissed without just cause, they shall receive an indemnification which shall be equal to a monthly wage per each year of services rendered. This right shall not exceed in any case ten months of wage.

Comparing the two constitutional rules, the inequality which rules between workers of the private sector and workers of the public sector at the time of making effective the indemnification for wrongful discharge is seen.

This inequality has been overcome in some collective agreements in which the payment of an indemnification for the whole period of the labor relation due to a wrongful discharge is established; and in other cases, these collective instruments have gone further because they established the reinstatement in the same job position and working conditions for those workers who have been subject to a wrongful discharge. In this latter case, workers shall act before labor courts in order for the nullity of the dismissal to be declared since it infringes the rights contained in the collective agreement, and once the nullity has been declared, the reinstatement in the same job position shall be ordered.

According to the interpretation of the Court of Constitutionality, it has maintained that job stability is the workers' right to maintain the labor relation during the period agreed, be it for a certain period or for an indefinite period. Depending on the intensity with which the right of stability is guaranteed, it may be classified in proper or improper stability.

Improper stability – which in Guatemalan legislation is applicable to most of the cases – is produced when workers do not have guaranty about the endurance of the legal relation, but they are guaranteed an indemnification in the case of a wrongful dismissal; it is about attempting to avoid the unlawful dismissal with the enforcement of an indemnifying sanction for the employer who does it, (Gazette N° 93 file 1272-2009, sentence 17/7/2009)

The right to strike

The Political Constitution of the Republic sets forth: Section 116. -Regulation of strikes for State workers. The associations, organizations, and unions composed by State workers and their decentralized and autonomous entities shall not be able to take part of party politics activities. The right to strike is recognized for State workers and their decentralized and autonomous entities. This right shall only be exercised as prescribed by the law of the subject and under no circumstances shall affect essential public services.

The Law of Unionization and regulation of strikes of State workers expresses: section 4: Procedures. For the exercise of the right to strike of State workers and their decentralized and autonomous entities, the procedures established in this law, and additionally, the ones prescribed by the Labor Code shall rule, as long as they are applicable and they do not contravene the following provisions:

- a) The direct way shall be compulsory to address in a conciliatory way collective agreements or conventions of working conditions, always taking into account the legal possibilities of the *Presupuesto General de Ingresos y Egresos del Estado* [State General Budget of Revenue and Expenditure], and if applicable, the one of decentralized and autonomous entities which corresponds. That way shall be considered closed to further consideration if within thirty days from the submission of the request of the interested party, an agreement has not been reached, unless the parties decide to extend the corresponding period.
- b) When that way is no longer feasible but the verification of that fact is omitted, the respective conflict shall not be processed, and the judge, under authority of law, shall adopt the necessary measures to verify that situation.
- c) Providing evidence that the previous requirement was met, the judge shall immediately decide processing the request and the list of respective petitions, and the conflict shall be deemed presented, to the sole effect of preventing either party from taking retaliatory action against the other and they shall not be able to prevent the exercise of their rights. Acts which discipline labor infringements or the ones that imply the exercise of rights contained by the law shall not be considered retaliatory acts. Therefore, workers shall conclude their labor relation without judicial authorization when there is a cause of forced resignation attributable to the State or in the case of waiver, maintaining the right of claiming the benefits which may correspond to them by virtue of the law, through the applicable legal procedures. The cancellation of appointments or labor agreements neither constitute retaliatory acts on the part of the State in the following cases: c.1) Unconstitutional; c.2) In the

cases of strike agreed and maintained regardless of its denomination as long as it implies the collective abandonment or suspension of duties or if it affects public services which are declared essential in this law. In these cases, the appointing authority of the State and of its decentralized and autonomous entities shall be entitled to cancel appointments and labor agreements, without being responsible and without previous judicial authorization.

d) For the purposes of the provisions of the Political Constitution of the Republic of Guatemala, the following services are declared essential public services: d.1) Hospitals, health centers and posts, as well as services of public hygiene and sanitation; d.2) Telephone service, air navigation service, telegraph and postal service; d.3) Administration of Justice and its auxiliary institutions; d.4) State or municipal urban and extra-urban public transport of any type; d.5) Services of the provision of water to the population and of production, generation, transportation, and distribution of electrical energy and fuel in general; and d.6) Public security services.

e) When settlement procedures have failed and an agreement or convention has not been reached, the resolution of collective conflicts of an economical-social nature in which workers who render essential public services take part, shall be subject to compulsory arbitration contemplated in chapter three, twelfth title of the Labor Code. In this case, the judge is not bound to render judgement about the legality of the strike. The right to strike of State workers and of their decentralized and autonomous entities shall be subject to the provisions of this law and of the Labor Code, except essential public services mentioned in this section which shall never be affected.

f) Apart from labor sanctions which shall be imposed on the people who take part in the cases of strike enumerated in subsection c. of this section, shall be subject to the criminal and civil responsibilities which were incurred.

g) Sympathy strikes in support of other unions or sympathy toward movements which arise through ad-hoc committees or due to interests unrelated to economical-social revindications shall be strictly forbidden.

In conclusion, it is observed that the Constitution recognizes the right to strike for workers. However, the law which regulates this right for public servants declares almost all the services rendered by the State as essential services, and that precludes the exercise of the right to strike, since according to that law, when the settlement in the collective procedure fails, the conflict shall be subject to compulsory arbitration. For that reason, it is said that this law banned the right to strike of State workers.

POLITICAL ORGANIZATION OF THE MEXICAN STATE

Mexico is a representative, democratic and federal Republic constituted by free and sovereign States as regards its internal regime, but joined in a Federation.

Nowadays, the country is composed by 32 federative entities (31 States and the City of Mexico, capital city of the Republic). In turn, these entities are divided into 2459 municipalities.

ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

- Workers of the Federal State
- State workers
- Municipal workers
- Legislative
- Judicial
- Of decentralized bodies*

**They may depend on the Federation, the State, or the Municipality. For example, Pemex (Petroleum of Mexico) is a federal, decentralized, public body as the Federal Commission of Electricity which also has its own organic law and its own budget.*

ABOUT LABOR LEGISLATION IN FORCE

The Republic of Mexico, whose official name is United Mexican States, has not ratified Convention 151 of the International Labor Organization.

The legal framework which currently regulates labor relations is defined by:

The [National Constitution](#), in its section 123, sets forth that “Everyone has the right to decent and socially useful work; to that effect, the creation of employments and the social organization of labor shall be fostered, according to the law”.

There, the Mexican Constitutional Charter establishes all the aspects related to the area of work. And it is divided into two parts, part A and part B. The A belongs to the work within the private sector and the unions of enterprises, and the B belongs to the public sector of any nature.

Collective bargaining is called in different ways in this Constitution. Within the private sector, it is called “collective labor agreement”, and in the state sector it is called “general working conditions”.

In its eighteenth section, part A of the private sector points out that to enter into a collective labor agreement is an employers’ obligation and a workers’ right, though labor unions which



may request collective bargaining and even call a strike in order to sign the collective agreement. Even it also points out strike procedures and the representation of unions, as well as the aim of the collective agreement, respecting international agreements.

On the other hand, part B which regulates the labor relation “between the union powers and its workers” does not develop in detail the aspects referred to bargaining. It sets forth that workers are granted freedom of association and it handles some sections about some powers and rights which may be enjoyed in the area of work in the public sector.

The aspect that is established in that part is that there shall be “regulatory provisions” of section 123, because as it is a framework law, it requires a regulatory law which shall clearly specify each of these sections.

The [*Ley Federal de Trabajadores al Servicio del Estado*](#) [Federal Law of Workers at the State Service] regulates section 123, part B, of the Mexican Constitution. It is federal and it has been adapted by each of the 32 states of the Union to regulate the area of work and general working conditions within the Public Sector in the different levels.

About the fact that Convention 151 of the ILO has not been ratified, the Confederation of Public Services of the Powers of the States, Municipalities, and Decentralized Institutions of the Mexican Republic [CONFEPIDER as per its Spanish acronym], organization joined to the CLATE, reviewed that although the Mexican State endeavors to comply with all the international provisions, in the case of collective bargaining within the Public Sector, it has considered the set of rules included in part B of section 123 of the Constitutional Charter to be enough.

As CONFEPIDER pointed out “the designation of General Working Conditions is included in the *Ley Federal de Trabajadores al Servicio del Estado* [Federal Law of Workers at the State Service] in its section 87, which sets forth that those conditions shall be fixed by the persons in charge of the respective dependencies”.

Respective dependencies make reference to all the Public Sector areas: the three State branches, public bodies or quasi-state enterprises or companies with majority state ownership or decentralized bodies, as well as municipalities.

ABOUT THE TYPES OF BARGAINING

Section 87 of the *Ley Federal de Trabajadores al Servicio del Estado* [Federal Law of Workers at the State Service] refers to the bargaining modality.

It sets forth that “General Working Conditions shall be fixed by the person in charge of the respective dependency taking into account the opinion of the corresponding labor union at its request, they shall be reviewed every three years”.

Moreover, section 88, enumerates the contents which shall be included in this type of bargaining:

- I. The labor intensity and quality;
- II. The measures which shall be adopted to prevent professional risks;
- III. Disciplinary provisions and how to apply them.
- IV. Dates and conditions in which workers have to attend to previous and periodical medical examinations, and
- V. Unhealthy and dangerous tasks which shall not be performed by minors and the protection which shall be given to pregnant workers; and
- VI. Other convenient rules to obtain more security and efficiency in the work.

About this, CONFEPIDER made an observation: if the conditions shall be fixed by the institution, taking into account the corresponding opinion of the union, it is a right contemplated, but limited. Moreover, the union stated that in most laws of public servants of the 32 States this section was modified and it does not refer to “take the opinion into account”; it limits even more the voice of the organization by stating that the conditions shall be determined “listening to the union”.

For this condition, CONFEPIDER recognized that, currently, bargaining in the public area lacks parity. It is only of a parity-based nature for the private area where to bargain at the same level between the parties is allowed and a strike may be begun up to reaching an agreement.

Regarding the periodicity in bargaining, in most signed general conditions a review is included every year. Wages and workers' inherent benefits are reviewed because in the public sector there are more social benefits than in the private area. Benefits are different items as the so-called “*quinquenios*” [wage growth every five years of continuous service], salary bonus, and aspects referred to Social Security, as well as other matters referred to the economical aspect as benefits for childbirth or other relatives.

Once the bargaining process has ended, and if there is an agreement, the general conditions of that sector are signed and they are submitted to the registration authority to obtain their legality. When they include economic benefits, the approval and signature of the treasurer or secretary of finances or treasury department shall be included as required by law.

About decentralized bodies, nowadays, there is a dispute on their bargaining scope. In the year 1997, it was set forth that all decentralized public bodies and bodies with majority state ownership or quasi-state bodies shall be added to part A of the Constitution as regards collective bargaining, which shall be seen as if they were enterprises. But, approximately, for five years changes have arisen in this set of rules and some decentralized public bodies are subject to the set of rules of part B. Many labor unions have struggled against this decision as a result of the limitations imposed in this part. An example of that are the unions of workers of the education sector and the teachers.

This is the result of the fact that, as the CONFEPIDER explained, the judicial reform of the year 2008 removed jurisdictional bodies for part B, local settlement boards composed by a representative of workers, a representative of employers, and a representative of the Government.

A tripartite body which was in charge of enforcing justice and that from the reform currently only operate to solve the backlog of previous lawsuits. The reform propelled the creation of Labor Courts within the Judicial branch.

Finally, it is important to inform that in Mexico there are the so-called “agreements law”. An example of this figure is the one that regulates the sugar cane activity and its workers. For the case of some cooperatives, they also exist, mostly in the agricultural sector of primary sectors of the economy.

In some cases, the general conditions also have a part referred to the union aspect. It is agreed that the representative union shall enjoy commissions for workers’ representatives to perform their duties according to the right of freedom of association which is included in Convention 87 of the ILO and which was ratified by the State of Mexico.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

Not only the *Ley Federal del Trabajo* [Federal Labor Law] but also the *Ley Federal de Trabajadores al Servicio del Estado* [Federal Law of Workers at the State Service] include the aspects referred to the union issue (creation and operation of unions), collective bargaining and the right to strike.

Within the Public Sector, the creation of unions is guaranteed not only in the Executive branch but also in the Legislative and Judicial branch. Moreover, within the Executive branch there are unions in sectors such as the secretariat of Public Work or Finances and also organizations of workers which represent different areas of the Public Administration, but which sign general working conditions for each institution or, even in decentralized public bodies.

As regards their representation area, there are different cases within the public sector. In the State of Jalisco, for example, each institution fixes its own general working conditions and its own union proceeding. However, in other states there is only one union, for example the case of the *Unique Union of Workers of Government Branches, Municipalities, and Decentralized Institutions of the State of Mexico*, [SUTEYM as per its Spanish acronym], organization which is a member of the CLATE, and which represents all public workers of municipalities, and workers of the Executive, Legislative, and Judicial branch, and of all decentralized bodies of that State.

Anti-union policies

The current labor set of rules, not only for the public sector but also for the private sector, protects the freedom of association. The right to the legal existence of unions is guaranteed, and union representatives are also protected by the law.

In Mexico, the right to no-intervention of the employers’ sector or their interference in union related matters is respected. However, above all within the state area, there are different ways of interference of political officers in union life. CONFEPIDER informed that complaints

have been submitted to the International Labor Organization about this topic, even after Mexico ratified Convention 98 on the 23 of November 2018.

Job Stability

Whereas the *Ley Federal del Trabajo* [Federal Labor Law] for part A sets forth job stability in the private sector, in the case of part B, the federal law also includes it, but with certain conditions of temporality. In its section 6, it sets forth that job stability shall be achieved with six months of uninterrupted work without an unfavorable note in the file. And as long as the position, the appointment, or the title of the work area where the employee develops is included in the so-called “workforce”.

The workforce is considered a higher category within the state sector since there are the so-called “employees with access to confidential information”. Employees with access to confidential information entitle officers on duty to hire or dismiss a worker whereas in the unionized workforce officers cannot interfere. That is to say, if an employee complies the six months and one day of work in his / her position, he / she already has job stability.

However, this provision is not always complied. In many cases, job stability is not given until the worker files a complaint before a court or, his / her union intercedes in the administration and reaches a definitive appointment. In many cases, appointments take place, but only for three months with the possibility of renewal.

The case of Jalisco

Although in most of the 32 federative entities and in the municipalities job stability is regarded in the same way as it is stipulated by the federal law, there is the case of Jalisco, in which this right is infringed.

The law of Jalisco expresses, on the one hand, that to be member of a union it is required to be “part of the workforce and active”. And also, that to achieve job stability the period of the governmental function shall be completed, that is to say, six years. In Jalisco, to achieve job stability a worker shall perform tasks during six years and six months, which in most cases is impossible since it depends on the will of the governor in office.

For CONFEPIDER, in this State a federal principle which is reglementary of the Constitution is being violated, a right which has been invoked in many labor law actions of persons who have been dismissed in spite of having worked three, four, or five years. Each governor arrives with new people and job stability is not respected. And for that reason, the union nucleus is in danger since the labor base gets smaller.

“Nowadays, Jalisco is the only entity of the Republic which maintains this legal barbarity and with this violation to the right to job stability, because the federal order is not respected. And the union has brought actions for the protection of rights which were violated, and it even has reformed its statutes to represent all the workers, independently of their condition, since if a worker complies with his / her functions and tasks of the so-called labor base, he / she shall be entitled to job stability and unionization”, CONFEPIDER explained.

The right to strike

Although this right is included in the Constitution, its implementation within the public sector, as CONFEPIDER considers, is very difficult to apply. The federal law and the local laws set forth that the strike is guaranteed when constitutional principles are infringed in a general and systematic way. That is to say, if there is a constitutional violation, a strike may be organized. But it has to be as follows: when it states “in a general way”, it is not general for the workforce, it is general for all the payroll, that is to say, for all workers, from the one that is in charge to the last one in the list. And when it states “in a systematic way”, it makes reference to a continuous act, which is repeated over the time.

These two remarks of the law make more difficult for unions of the state sector to call for a strike. In practice, as CONFEPIDER explained, it is almost impossible for unions to call for a strike, but a stoppage can be caused as well as acts which enable to make the protest visible to make it known to the public opinion through the media.

Thus, labor stoppages called by unions are not legal, but they become the forceful measure used by workers. Institutions are brought to a standstill and demonstrations are held, although workers are not paid for those days in which they do not work.

For CONFEPIDER, unions' power within the Public Sector, in spite of the laws in force, is rather factual. The ratification of Convention 151 of the ILO is still demanded in order to be able to ensure parity in the right to bargain since regarding legal hierarchy international treaties are above federal laws.

POLITICAL ORGANIZATION OF THE PANAMANIAN STATE

The Republic of Panama is a unitarian State according to its political Constitution, which is organized territorially in 10 provinces, 81 districts (or municipalities), 702 townships and 6 indigenous districts.

In each province there is a governor of free appointment and removal of the Executive branch who is the representative of the division along with a provincial council composed by all the representatives of the townships of that province.

Moreover, the Constitution recognizes municipalities as autonomous political organizations of the communities established in a district. They are considered as the fundamental entities of the political administrative division of the State, with an own, democratic, and autonomous government, and they have to render the public services, organize the development of their territories and foster the participation of citizens.

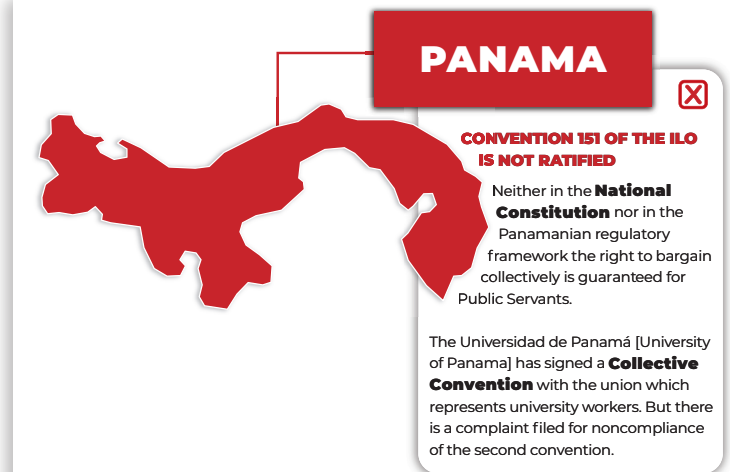
ABOUT LABOR LEGISLATION IN FORCE

Panama has not ratified Convention 151 of the ILO yet. In Panama, a regulatory framework for collective bargaining for public servants does not exist.

The [Constitution of Panama](#), in its Third Chapter, which develops all the aspects related to labor, includes a series of rights which appear in different Conventions of the International Labor Organization.

Among them, in its section 68, Panama recognizes “the right to unionize for employers, employees, and all kinds of professionals for the purposes of their economical and social activity”. As in the Constitutional Charter there are no exceptions, in 2014 the Supreme Court of Justice of Panama decided in favor of the right to unionize of workers of the Public Sector, and the first two legal personalities were conferred: one to the National Union of Workers in the Education area [SINTE as per its Spanish acronym], with members not only of the public sector but also of the private sector, and to the National Union of Workers of the University of Panama [SINTUP as per its Spanish acronym], only of the public area.

However, this constitutional right does not explicitly develop the right to bargain collectively. But it is important to highlight that in its section 4, the Constitution set forth that the Republic of Panama complies with the rules of the International Law. And that also there is consistent case law of the Supreme Court of Justice about the fact that all the International Treaties and Conventions shall be considered constitutional rights. For example, Conventions 87 and 98 of the ILO, which have been ratified by Panama, and recognize the workers' right, without discriminations, to exercise the right to freedom of association and all its implications, for example participation in collective bargaining and call a strike.



Nowadays, the right to freedom of association is recognized by the State of Panama with the conferment of approximately 15 legal personalities to unions of the Public Sector; although the participation of these unions to bargain collective conventions is not allowed yet. And there is not a law which rules collective relations between the State and unions, in spite of some attempts which were the result of the tripartite dialogue.

Moreover, only in some special cases, instances called “collective agreements” are executed, although not always they comply with the requirements which collective bargaining implies and rarely, they occur within the public sector.

ABOUT THE TYPES OF BARGAINING

An example of collective bargaining within the public administration of the Republic of Panama, specifically in the area of higher education, is the Collective Convention bargained between the *Universidad de Panamá* [University of Panama] and the SINTUP, organization affiliated to the CLATE, which was signed for the first time in the year 2019 and it is applied nationally. For this instance, the Constitution of the Republic was used as the legal basis as well as the International Conventions of the ILO which made reference to this right.

Nowadays, since its publication in the Official Gazette 30242, the Second Collective Convention came into force on the 25 of March 2025 between both parties of this public academic area and after more than one year of complaints filed by the union in all national and international areas against university and governmental authorities which disregarded the agreement executed in January 2024.

Finally, it is informed that in other state areas mutual agreements are signed between the parties, but they do not have regularity and they depend on the will of the employers' sector and the budgetary availability, and in general, it is always scarce as workers' organizations explain.

ABOUT BARGAINING

The collective convention bargained between the *Universidad de Panamá* [University of Panama] and the SINTUP includes different labor, social union aspects and also economical. This agreement encompasses all workers of the administrative sector of the *Universidad de Panamá* [University of Panamá], affiliated or not to the union which signs the Convention.

In this context, SINTUP informed that with the approval and publication of the Second Collective Convention new progress is being made as regards Labor Rights for workers of the *Universidad de Panamá* [University of Panama], for example the creation of university labor policies with gender perspective and committed to the prevention and treatment of labor violence and harassment in all forms, aspects provided by Convention 190 of the ILO.

Other Panamanian state enterprises or public universities are not part of this convention and as of today other collective labor conventions of this type have not been registered in the Panamanian public sector.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

Nowadays, in Panama [Law 9](#) about the “Administrative Career” rules. It was passed on the 20 of June 1994. There, right to unionization of workers of the public administration in Panama is recognized.

In its title VIII, called “The Associations of Public Servants and the solution of collective conflicts”, that law develops and enumerates the central aspects, rights and obligations which rule the activity of the associations within state institutions. However, the unions of the Public Sector, report that in spite of having the right to organize and elect representatives, there is not a regulatory framework which includes protection mechanisms for public officers / employees against anti-union discrimination acts.

In the case of the *Universidad de Panamá* [University of Panama], as autonomous entity, the statute set forth the right to enjoy freedom of association and unionization, as well as to bargain collectively. Moreover, in the Regulation of the career of administrative public servants of the *Universidad de Panamá* [University of Panama] some advantages are established for the performance of union activities.

Job stability

Job stability within Panamanian public administration is one of the aspects included in the cited Law 9 about the “Administrative Career”. But the unions of the sector explain that whereas in some institutions as the *Casa del Seguro Social* [Institution of Social Security], universities, and Chamber of deputies, stability is guaranteed by virtue of special laws for workers of the central government and municipalities, Law 9 is not completely applied.

The right to strike

Although the right to strike is included in section 69 of the Constitution of Panama, there are restrictions as regards public services which shall be guaranteed or considered essential. In this context, unions of the sector explain that this right is not completely guaranteed and there are cases of criminalization of union leaders who have been subject to disciplinary procedures and persecution in the context of different conflicts in the employer’s sector.

POLITICAL ORGANIZATION OF THE PARAGUAYAN STATE

After the constitutional reform of 1992, the Republic of Paraguay is constituted by 17 departments, and a capital district. Each of them has its own government and political system.

The departments are headed by the governors who are elected by the direct vote and who are responsible for the administration of public resources and services within their territory. Each department has its representative before the National Parliament according to the number of votes and inhabitants.

Moreover, there are 261 municipalities. In the central department there is Asunción, the capital city of the country.

ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

- National
- Departmental
- Municipal
- Of public enterprises
- Legislative
- Judicial (with own provisions)

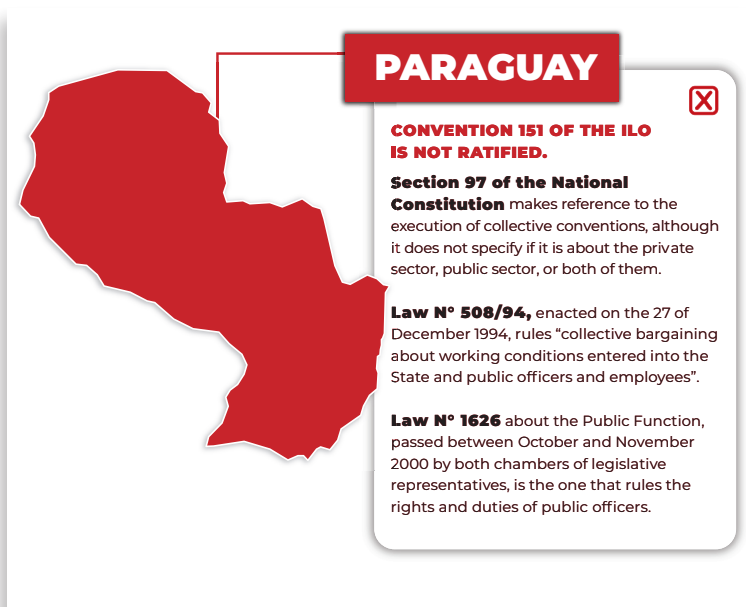
ABOUT LABOR LEGISLATION IN FORCE

The Paraguayan State has not ratified Convention 151 of the ILO.

It is worth mentioning that the International Labor Organization, in the year 2008, published a practical guide for the systematic inclusion of decent employment and work through the *Oficina Subregional para el Cono Sur de América Latina* [Subregional Office for the Southern Cone of Latin America] along with the *Confederación Sindical de las Américas* (CSA) [American Confederation of Trade Unions] and the *Coordinadora de Centrales Sindicales del Paraguay* [Paraguayan Coordination of Labor Union Confederations].

There, the treaties ratified by Paraguay and the ones which are still pending are mentioned. In title III of that guide the “Conventions whose ratification shall be fostered for the interest of the union movement” are mentioned, and among others, Convention 151 “about labor relations in the public administration” is mentioned. However, as of today, the authorities of the Paraguayan Government have not provided an effective response in this sense.

For its part, the [National Constitution](#), in its section 97, makes reference to the execution of collective conventions, although it does not specify if it is about the private sector, public sector, or both of them. “ABOUT COLLECTIVE CONVENTIONS. Unions have the right of fostering



collective acts and enter into conventions about working conditions. The State shall favor conciliatory solutions for work conflicts and social concertation. The arbitration shall be optional”.

Moreover, [Law N° 508](#) of Collective Bargaining in the Public Sector, enacted on the 27 of December 1994, rules “collective bargaining about working conditions entered into the State and public officers and employees”. That legislation encompasses the different aspects which shall be met to bargain and the persons who shall take part in them.

Nevertheless, a convention which rules the public function in Paraguay does not currently exist. Different types of conventions are signed, in their general rules, although very similar among them since this Law sets forth specific provisions to sign the conventions.

Moreover, in section 4 of Law 508 it is highlighted that in the enumeration of the aspects which shall not be subject to collective bargaining it refers to: “...d) The items not included in the General Budget of the Nation”. That means that unions’ acts shall be limited as well as proposals about very important aspects in any collective bargaining.

ABOUT THE TYPES OF BARGAINING

According to section 2 of Law 508 which rules collective bargaining in the Public Sector, the applied collective conventions shall be discussed in the different institutions of the Administration, public enterprises, and decentralized entities. “The persons affected by this Law encompass public officers and employees of the bodies which compose the central administration, decentralized entities, public enterprises, official banks, governments and municipalities, except the ones which are expressly exempted”.

Moreover, this section includes in those aspects the governments and municipalities, although national, departmental or municipal collective agreements do not currently exist in Paraguay.

“In those institutions in which collective agreements are not entered into, it shall depend on the workers’ organization or union to agree benefits in bilateral or tripartite meetings”, the National Union of State Workers [UNTE-SN as per its Spanish acronym], member of the CLATE explains.

ABOUT BARGAINING

In its section 9, Law 508 explains the format which a convention shall comply with. “When the parties reach an agreement, they shall reduce to writing in entries the agreed aspects. The entries shall at least contain:

- a) Place and date of execution;
- b) Individualization of the parties and their representatives;
- c) The personal scope of application mentioning clearly the category, sector, or title of the personnel comprised;
- d) The jurisdiction and the territorial area of application;
- e) The period of validity; and,
- f) Any reference leading to determine with clarity the scope of the agreement.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS.

Unionization

Although section 97 of the National Constitution which refers to the execution of collective conventions does not specify if it is about the private sector, public sector, or both of them, section 96 guarantees all workers, be they of the private or public sector, the right to “organize themselves in unions, without the need of a previous authorization”.

Moreover, section 102, which is in article II “About the Public Function”, sets forth that public officers and employees enjoy the “rights established in the same article of labor rights – which refers to the private – in a uniform regime for the different careers within the limits prescribed by the law and which safeguards the rights acquired”.

Similarly, section 284 of the Labor Code states that: “All employers of private activities, employees, and workers of the private sector, except the cases contemplated, enjoy the right to unionize or separate from their unions”. Moreover, it states that all public authorities shall refrain from all interventions tending to limit the right to freely constitute their organizations, make their statutes, choose their authorities freely, execute collective conventions, etc.

However, the *Asociación de Abogados Laboristas de Paraguay* [Paraguayan Association of Labor Lawyers] explains that these rights are being systematically attacked by the authorities of the current Government, directly and indirectly through the following example: the *Procuraduría General de la República* (PGR) [Office of the National Attorney General] intervened through an “urgent provisional remedy” and requested the suspension of the effects of Resolution N° 1235, of the 29 of July 2022, passed by the Vice Ministry of Labor, Employment, and Social Security, which approved and registered additions to the Collective Convention signed between the *Entidad Binacional Yacyretá* [Binational Entity] and its unions of workers. The additions expanded, among other things, the number of workers protected by the Union Stability (right to job security for union representatives). This inclusion was the reason why the PGR proposed a so-called “action”, “proceedings” or “resource against detrimental actions”, pretending, by this means, the declaration of nullity of the cited additions.

The government auditing board, in its ruling, and in spite of a dissenting vote which proposed the “*in limine*” rejection, as prescribed by law, admitted the “act” of the PGR in spite of lacking competence, creating a precedent of interference in union affairs. It is worth mentioning that, in spite of that resolution, some labor judges pronounced provisional remedies to reinstate workers of that Binational Entity and others did not dare to support the unions’ claim.

Job Stability

[Law N° 1626](#) about the Public Function, passed by the Legislative branch in the year 2000, regulates all the aspects referred to unionization, strike, and the administrative career of the public sector. However, some aspects included in the Law such as job stability of public officers impinge on the principles of progress and regress prohibition.

In fact, before the enactment of Law N° 1626/00, Law N° 200 was in force. It was called Statute of the Public Officer, and it established the first six (6) months as trial period, and once this requirement had been complied, the officer acquired stability. The new law sets forth an “instability” period of two (2) years in the position, which implies a big regress in the acknowledgement of the right to stability. This is one of the aspects in which the current law impairs public officers’ labor rights.

Moreover, as regards work precariousness and stabilization, this law authorizes the temporary employment of workers, establishing the conditions from section 24 to 29. The maximum duration period of those agreements is 12 months, except the causes which fostered the employment subsist. In practice, this mechanism is used to employ officers out of the public competitions without other justification apart from “temporary community needs requiring immediate attention”.

In that context, nowadays there are workers in public institutions employed under these conditions with years of continuous employment which vary from 5.10 and up to 15 years, earning a fixed wage, without the benefits of an appointed, regular, and permanent officer. It could be said, in conditions of absolute precariousness.

With the aim of “eliminating” this practice, in January 2016, the Secretariat of the Public Function [SFP as per its Spanish acronym] passed the resolution N° 075/2016 which sets forth “the general set of rules of selection for the stabilization of the employed personnel which develops permanent functions in the Public Function for the fiscal year 2016”.

As it is seen, it is the Central Administration, through the SFP, the one which recognizes that there are workers in a precarious situation of employment within the State, but it limits its regulation to those who have a certain minimum number of years of service and who pass examinations in public competitions.

Moreover, the case law of Paraguayan courts is not uniform as regards this topic. In some cases, these workers are considered with all the rights of a permanent worker; and, in other cases, they are discredited as such and they even do not have the right to a compensation for wrongful dismissal, that is to say, they are discharged with the simple notice of “agreement due”.

Finally, it is worth mentioning the jurisdictional conflict which produces this type of agreements within the State. In some cases, labor judges declare themselves incompetent in this subject, and in other cases, civil court judges or judges who deal with administrative matters are the ones that declare themselves incompetent, and that situation produces legal instability for those who are involved in the situation.

POLITICAL ORGANIZATION OF THE PERUVIAN STATE

The Republic of Peru defines its government as a unitarian, representative, and decentralized government, and it is organized according to the principle of separation of powers.

According to its Constitution there are 4 kinds of divisions: region, department, province, and district. Settlements are also regarded as territorial divisions, according to the law of municipalities. Nowadays, Peru is composed by 24 departments, 196 provinces, and 1874 districts.

In turn, Peru is divided into three levels of government: national, regional, and local (municipal). The government, at the national level, encompasses the three State branches and the Constitutionally Autonomous Bodies. The regional government is exercised in regions and departments, whereas the local government is exercised in the provinces, districts, and populated centers.

ABOUT LABOR LEGISLATION IN FORCE

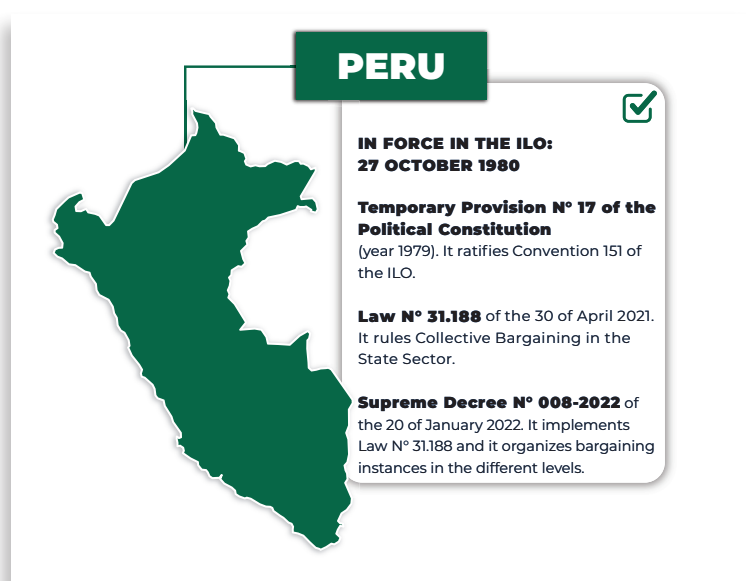
Convention 151 was included in the Temporary Provision N°17 within the [Political Constitution](#) of Peru in 1979, and it was ratified by the Peruvian State on the 27 of October 1980.

On the other hand, according to the case law of the Constitutional Court of Peru, as of a systematic interpretation of sections 28 and 42 of the Political Constitution of the State, state workers are entitled to the right to bargain collectively.

In its judgement¹, the Court determined that the acknowledgement of the right to unionization, the right to strike, and collective bargaining for all workers which are included in section 28 of the constitutional rule also encompasses public workers; and the absence of semantic individualization of this right in section 42 is not aimed at excluding the acknowledgement of those rights for this sector of workers.

In fact, section 28 of the constitutional rule states that: “The State recognizes the rights to unionization, collective bargaining and strike. It safeguards its democratic exercise: 1. It guarantees freedom of association. 2. It fosters collective bargaining and pacific solutions for labor conflicts. The collective convention is binding within the scope of the agreed terms. 3. It rules the right to strike, therefore it may be exercised in line with the social interest. It indicates its exceptions and limitations”.

¹ Judgement recorded on file N° 00018-2013-PI/TC of the 21 of May 2014; Judgement recorded on files N° 0003-2013-PI/TC, 0004-2013-PI/TC and 0023-2013-PI/TC of the 3 of September 2015; and Judgement recorded on files N° 0025-2013-PI/TC, 0003-2014-PI/TC, 0008-2014-PI/TC and 0017-2014-PI/TC of the 26 of April 2016).



Moreover, in Peru, [Law N° 31.188](#) of collective bargaining in the State sector is applied. Its aim consists in regulating the exercise of the right to bargain collectively of unions of State workers, according to the provisions of sections 28 and 42 of the Political Constitution of Peru, and the provisions of Conventions N° 98 and N° 151 of the International Labor organization.

In this context, the guidelines for the implementation of Law N° 31188 which were approved through [Supreme Decree N° 008-2022-PCM](#) and its amendments are also applied.

It is worth mentioning that collective bargaining in State enterprises is ruled by the provisions of the *Texto Único Ordenado de la Ley de Relaciones Colectivas de Trabajo* [Consolidated Text of the Law of Labor Collective Relations] (applicable to the private sector), approved through Supreme Decree N° 010-2003-TR, and its set of rules. Moreover, those rules are supplementarily applied to collective bargaining of the other State workers.

ABOUT THE TYPES OF BARGAINING

Law N° 31.188 of Collective Bargaining in the State Sector is applicable to collective bargaining developed by workers' unions of entities of the Executive, Legislative, and Judicial branch, regional governments, local governments, the bodies in which autonomy is vested by virtue of the Political Constitution of Peru and its organic laws, and other entities, bodies, State projects and programs whose activities imply the exercise of administrative powers.

Collective bargaining in State enterprises are ruled by the provisions of the *Texto Único Ordenado de la Ley de Relaciones Colectivas de Trabajo* [Consolidated Text of the Law of Labor Collective Relations] (applicable to the private sector), approved through Supreme Decree 010-2003-TR, and its set of rules.

Nowadays, there are State collective conventions at a centralized level (which include the three levels of government: national, regional, and local, except the special careers of education and health); decentralized sectorial (special careers of education and health); decentralized by entity (they complement the centralized convention); and by public enterprise.

By virtue of the statements of sections 42 and 153 of the Political Constitution of Peru, the following State workers are excluded from collective bargaining: State officers with decision-making power, senior officers or those officers with access to confidential information, members of the Armed Forces and of the National Police, as well as judges and prosecutors.

All state collective conventions are ruled by the regulatory framework previously mentioned. However, there is the possibility of establishing dialogue tables between state employers and public workers, in order to deal with topics which go beyond collective bargaining or which derive from it.

The most recurrent topics tend to be the labor situation of state workers under administrative agreements of services [CAS as per its Spanish acronym] and wage standardization of public entities.

ABOUT BARGAINING

The determination of all kinds of working and employment conditions, which include remunerations and other working conditions with economic impact as well as all aspects related to relations between employers and workers, and the relations between employers' organizations and workers' organizations, are subject to state collective bargaining.

This includes:

- Remunerations, understood as economic compensations given to public servants for their services rendered.
- Other working conditions with economic impact; understood as all sums which are given to public servants for the full and effective performance of their tasks or duties, as long as they are not a monetary benefit or advantage for public servants and they are not part of the remuneration.
- Relations between employers and public servants, understood as benefits with no budgetary impact referred to the regulation or conferment of individual benefits or rights of public servants.
- Relations between employers' organizations and public servants' organizations, understood as benefits with no budgetary impact referred to the regulation or conferment of collective rights of public servants; and
- Other remunerations stipulated by rules with force of law.

In the **centralized level**, petitions related to previously mentioned subjects may be bargained, as long as they may be applied to all public servants of entities (with the previously mentioned exceptions), according to their respective labor regime.

In the **decentralized level**, working or employment conditions with or without economic impact which are applicable to the servants encompassed within the respective area may be bargained. Those subjects agreed at the centralized level are excluded, unless otherwise agreed in the collective convention signed in that level, and in that case decentralized bargaining may refer to the execution conditions of the agreements at the centralized level, without the power of reducing or denaturalizing them, or including the approval of sums higher than the agreed in the centralized level of bargaining for the same items.

Collective bargaining of state workers' unions takes place in the following levels:

Centralized level: in which the agreements reached are applicable to the all the workers of the entities of the Executive, Legislative and Judicial branch, regional governments, local governments, the bodies which the Political Constitution of Peru and its organic laws have granted autonomy, and other entities and bodies, State projects and programs, whose activities imply the exercise of administrative powers (except for the workers of the special careers of education and health, and those excluded from collective bargaining by the Constitution).

It is executed in only one bargaining instance with the majoritarian representation of servants of the entities encompassed in the area indicated, regardless of their labor regime.

The following aspects are bargained:

- The modification of the remunerative structure applicable to all state workers (with the previously mentioned exceptions), as well as the kind, amount, or characteristics of the remunerations and other working conditions with economic impact.
- Any other aspect, as long as it is applicable to all workers of the public entities in this area.

Decentralized level: it takes place in the sectorial area (special careers of education and health), territorial (district municipalities geographically located within the same province and its affiliated bodies, excluding those district municipalities which bargain per entity) and by public entity (which complements the centralized convention), or in which unions deem convenient, and which has effect in its respective area.

The following aspects are bargained:

- Employment or working conditions which include remunerations and other working conditions with economic impact which are applicable to workers encompassed within the respective area, excluding the aspects agreed at the centralized level, unless otherwise agreed.

In order to bargain collectively at the decentralized territorial level and by public entity, it is necessary to recognize previously the economic aspects and agreements related to them which were adopted in the collective bargaining at the centralized level. In case economic agreements have not been reached at the centralized level, those aspects may be bargained at the decentralized territorial level and by public entity.

Public enterprises: labor unions of these entities bargain collectively with their respective employers under the rules of the private sector.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

The *Ley del Servicio Civil* [Civil Service Law], [Law N° 30.057](#), section 47, subsection 2, paragraph d), states that labor relation is imperfectly suspended in the case of permits and licenses for the development of union positions.

Moreover, the Regulation of the *Ley del Servicio Civil* [Civil Service Law], passed by Supreme Decree N° 040-2014-PCM, includes the right to union licenses, and in section 61 it specifies that collective conventions may contain provisions which tend to facilitate union activities regarding meetings, notices, union permits and licenses, which may be considered a form of imperfect suspension of the civil service, according to the *Ley del Servicio Civil* [Civil Service Law].

Upon failure to reach an agreement, public entities are only liable to grant union permits or licenses for acts of compulsory attendance up to 30 calendar days per year and per leader. The limit of thirty (30) calendar days per year per leader shall not be applied when there is a more favorable collective convention or practice.

Regarding acts of compulsory attendance, section 62 states that it refers to those cases established as such in the union statute as well as to judicial, administrative or police summons related to union activity. The attendance of union leaders who are members of the bargaining commission to the meetings which take place during the collective bargaining procedure shall not be computed within the limit of thirty (30) calendar days established in section 61.

Regarding the union license for representation acts in the processes of collective bargaining, section 11 of Law N° 31.188 of collective bargaining in the state sector, states that upon failure to reach a collective convention, workers' representatives which are part of the bargaining commission are entitled to a union license with remuneration. Moreover, it states that union licenses cover the period from thirty (30) days before the submission of the list of claims up to thirty (30) days after the collective convention is signed or the arbitration award is issued. It restates that this license is different to the union license granted by the law or by the collective convention to the members of the board of directors of the union.

Regarding the application of the union license mentioned in section 11 of Law N° 31.188, in the Technical Report N° 001311-2023-SERVIR-GPGSC, the national authority of the Civil Service explained that the union license for collective bargaining, be it centralized or decentralized, only favors the members of the respective bargaining commission, and its application is exclusively from the previous period to the submission of the list of claims up to the subsequent period to the execution of the convention or issuance of the respective arbitration award, according to the information previously mentioned.

Moreover, it is possible that an officer affiliated to a union may take part as a member of the union representation in the bargaining commission, not only in a centralized collective bargaining but also in a decentralized collective bargaining, and he / she shall be given the union license referred to in section 11 of Law N° 31.188.

Anti-union policies

The *Nueva Ley Procesal del Trabajo* [New Labor Procedural Law], [Law N° 29.497](#), section 2, subsection 3, sets forth that courts specialized on labor matters hear and solve in abbreviated labor procedures claims related to the violation of freedom of association; however, this rule does not expressly include a mechanism providing a reinforced, preventive, and effective special protection for union leaders against unfair dismissals.

Here, it is evidenced that the provisional remedy of reinstatement in favor of a union leader would only occur after the dismissal, that is to say, not as a preventive remedy as it would happen if that procedural legislation includes the requirement that, for the dismissal of the union leader, the employer, previously, has to request a judicial authorization in order to end the employment contract.

Furthermore, it is also worth noting that section 64 (about the layoff or dismissal of union leaders) of the regulation of the *Ley del Servicio Civil* [Civil Service Law], passed whereby Supreme Decree N° 040-2014-PCM, practically entitles employers of the public sector to perform this kind of dismissals, since it establishes that the entity shall only notify in writing, simultaneously to the union and to the civil servant, the cause of the layoff or dismissal, in order for the union to act in defense of the leader without the need of a special power.

It is worth mentioning that the omissions of the labor procedural legislation and of the legislations of the civil service place state workers in a more vulnerable situation, since in that area there are different contractual modalities which in some cases include the possibility of starting administrative procedures to impose a sanction on civil servants, and those procedures may conceal practices of union discrimination; and in other cases, as in the Administrative Agreement of Services under Legislative Decree N° 1057, the entities may simply conceal anti-union dismissals by not renewing contracts.

Job Stability

Section 66 (characteristics of the hiring of civil servants) of the *Ley del Servicio Civil* [Civil Service Law], Law N° 30057, sets forth that professional civil servants join to the Civil Service Regime for an indefinite period and are only subject to the causes of layoff and dismissal set forth in sections 47 and 49 of that Law; however, this may not be applicable to all state workers who are subject to other labor regimes, as it is illustrated in the following chart, in the Peruvian public sector there are different modalities of hiring.

According to the electronic form of the Ministry of Labor and Employment Promotion [MTPE as per its Spanish acronym], in the Peruvian State there are more than 1,800,000 workers who have the following distribution per hiring regime:

PERU: PUBLIC EMPLOYMENT ACCORDING TO THE HIRING REGIME, 2022		
Hiring Regime	Number of workers	% of the total
Special careers (They include teachers of basic education, health professionals and assistants, armed forces and police, diplomats, university teachers, magistrates, prosecutors and prison officers 1. They also include SERUMS 2 and public managers).	731,838	39.9%
Legislative Decree N° 1.057 (It regulates the Special Regime of Administrative Hiring of Services, [CAS as per its Spanish acronym], inW force and effect since 2008).	377,504	20.6%
Employers (This kind of personnel does not have a labor relation, but in practice many of them perform their duties under a subordinate and dependent status).	275,248	15%
Legislative Decree N° 276 (It approves the Ley de Bases de la Carrera Administrativa y de Remuneraciones del Sector Público [Law of the Administrative Career and Remunerations of the Public Sector], in force and effect since 1984).	257,197	14%
Legislative Decree N° 728 (It approves the Ley de Productividad y Competitividad Laboral [Labor Productivity and Competitiveness Law], in force and effect since 1997. This rule regulates the general	192,063	10.5%
Law N° 30.057 (It approves the Ley del Servicio Civil [Civil Service Law], in force and effect since 2013).	2,023	0.1%
Total	1,835.873	100%

1 Servir. Report of the Special Regime of Administrative Hiring of Services, page 5.

2 The “Servicio Rural y Urbano Marginal de Salud” [Marginal Rural and Urban Health Service] is a program of services for the community developed by qualified and licensed professionals in health sciences, mainly in the poorest and most isolated populations of Peru, according to the provisions of Law N° 23330. Moreover, according to this rule, the services of SERUMS are an essential requirement to hold positions in public entities, enroll in the programs of second professional specialization and receive from the State a grant or other similar support for studies or specialization.

A critical issue that requires special attention is the problem of workers hired under Legislative Decree N° 1057, also called CAS, which was created in 2008 as a provisional hiring modality in the State. The CAS regime aimed at regularizing the outsourcing in the public sector which in practice developed permanent tasks and under subordination, these were the so-called “non-personal services”.

CAS workers, apart from not having job stability, have less rights compared, for example, to the personnel under the labor regime of Legislative Decree N° 728, who are entitled to the right to holidays (30 days), bonuses (2 remunerations per year), health insurance, compensation for the time in service (1 remuneration per year), family allowance (10% of the minimum remuneration), among others.

Although in 2012, whereby Law N° 29849, the progressive removal of the CAS regime was stipulated, whereas the new civil service regime was implemented, the State continued hiring under that modality, and as of today there are more than 377 thousand of CAS workers, surpassing other labor regimes in number; whereas only a little more than 2 thousand workers are governed by the Ley del Servicio Civil [Civil Service Law].

Due to the delay of the Judicial branch in adopting actions to make feasible the progressive transfer of CAS workers to the Ley del Servicio Civil [Civil Service Law], the Congress of the Republic passed [Law N° 31131](#), published on the 9 of March 2021, which prescribes the progressive inclusion of CAS workers in the labor regime of Legislative Decree 728 or Legislative Decree 276, as appropriate. The main aspects regulated by this rule were: i) CAS agreements which were in force as of the 10 of March 2021 had to acquire the status of indefinite-term agreements; and, ii) the prohibition for the State to enter into new CAS agreements, except if they are intended for the development of temporary or substitute duties.

However, in May 2021, the Executive branch filed a complaint of unconstitutionality against Law N° 31131, stating that this rule – among other aspects – violated its constitutional competencies in economic matters and in the management of human resources in the public sector. Therefore, by virtue of judgement N° 00013-2021-PI/TC of the 30 of November 2021, the Constitutional Court of Peru partially upheld the complaint and, as a result, different sections were declared unconstitutional, and only the provision which sets forth the indefinite nature of CAS agreements existing when the Law came into force remained in force and effect.

The hiring system under the CAS regime that took place after Law N° 31131 came into force has a provisional nature, even when in practice that personnel is required to perform permanent duties in the entities.

The right to strike

Section 13 (procedure of collective bargaining in the public sector), subsection 2, of Law N° 31.188 of Collective Bargaining in the State Sector, states that if an agreement is not reached in the conciliatory stage of the collective bargaining, any party may request the initiation of an optional arbitration procedure which shall conclude on the 30 of June, except that workers decide to go on strike. In that case, the strike declaration shall be performed pursuant to the provisions of the Texto Único Ordenado de la Ley de Relaciones Colectivas de Trabajo [Consolidated Text of the Law of Labor Collective Relations] (which corresponds to the private sector), passed by virtue of Supreme Decree 010-2003-TR, and its regulation.

Moreover, the only complementary repealing provision of Law N° 31.188 repealed, among others, section 45 (exercise of the strike) of the Ley del Servicio Civil [Civil Service Law].

However, it is worth mentioning that the absence of a specific regulation for the exercise of the right to strike on the part of state workers represent some disadvantages. Firstly, sections 73, 74, and 84 of Supreme Decree 010-2003-TR establish conditions which may be interpreted as administrative restrictions of that fundamental right in detriment of workers in general, such as: a) the employer and the Labor Authority shall be notified about the strike at least five (5) business days or ten (10) days before in the case of essential public services, along with a copy of the voting record; b) the Labor Authority shall pronounce the inadmissibility of the strike within three (3) business days from the reception of the notice; and, c) that different scenarios may be considered whereby the Labor Authority may declare the illegality of striking.

The previously mentioned regulation maybe explains the low percentage of strikes declared legal per year by the Labor Authority. For example, in 2022, in the private sector only the 24% of the strikes were declared lawful (Source: Ministry of Labor [MTPE as per its Spanish acronym]).

The second disadvantage is that the Labor Authority, which is part of the State as employer, is the one that decides about the lawfulness of the strike of state workers under the private regime. Moreover, section 86 of Supreme Decree 010-2003-TR sets forth that for the case of state workers who are not subject to the private regime, the declaration of illegal strike shall be made by the corresponding sector. Clearly, this produces a situation of conflict of interests granting the role of judge to the State which is the employer in the public employment area.

In this regard, section 86 of the Regulation of the Ley del Servicio Civil [Civil Service Law] takes into account the creation of a Commission of Civil Service Support, constituted by independent professionals as a body authorized to hear and solve in a single administrative instance the conflicts and disputes which arise between unions and public entities. Among the issues which that commission could solve there was the one of the inadmissibility and illegality of the strike and the determination of essential minimum services. However, it is understood that with the repeal of section 45 of the Ley del Servicio Civil [Civil Service Law] (about the right to strike), the sections that regulated the respective set of rules would have also lost force and effect by due to their connection even more if section 13° of Law N° 31188 directs us to the general regulation of Supreme Decree 010-2003-TR.

** Report made by the Intersectoral Confederation of State Workers of Peru [CITE as per its Spanish acronym], member of the CLATE, supported by Perú-EQUIDAD [Peruvian Association].*

POLITICAL ORGANIZATION OF THE DOMINICAN STATE

The Dominican Republic is comprised of 31 provinces and a National District, which in turn, are subdivided into 158 municipalities and 235 districts.

The provinces are headed by a civil governor directly appointed by virtue of a decree by the president of the Nation, unlike municipalities whose mayors are elected in direct elections by the population as the Council of Aldermen.



ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

Workers of the State administration, bodies and entities which belong to the legislative, executive, and judicial branch, including municipal entities, as well as constitutional bodies as the *Junta Central Electoral* [Central Electoral Board] and the *Cámara de Cuentas* [Chamber of Accounts].

ABOUT LABOR LEGISLATION IN FORCE

Convention 151 of the ILO has not been ratified in the Dominican Republic.

The [National Constitution](#) recognizes the right to bargain collectively for all workers, in its section 62, about the right to work: “Among the basic rights of workers we can mention: freedom of association, social security, collective bargaining, professional training, respect towards their physical and intellectual capacity, privacy, and dignity. And also, in section 138 which is about the principles of the Public Administration”. However, there is not a special chapter for the Public Sector about collective bargaining.

[Law 41-08](#) about the Public Function is the one that regulates labor relations of the Public Sector, but it does not take into account collective bargaining.

Nowadays, in the amendment of Law 41-08 which is discussed in thematic tables about Public Administration, a proposal has been sent to the Congress of the Republic to include the topic of collective bargaining in the Public Sector, but the unions are not conversant with the text which was sent.

Moreover, [Law 16-92](#), called *Código de Trabajo* [Labor Code], in its section 103, as well as Convention 98 of the ILO, which has been ratified by the country, sets forth collective bargaining as follows: “Collective convention of working conditions is the one that with the intervention of the most representative bodies, not only of employers but also of workers, may be executed between one or among many unions of workers, and one or many employers or one or many unions of employers, with the aim of establishing the conditions which shall be complied by employment contracts of one or different enterprises”. But the Public Officers are not mentioned, therefore, they are excluded from the Convention.

ABOUT THE TYPES OF BARGAINING

In the Dominican Republic, collective conventions are only applicable or only exist in the private sector, with some exceptions, such as: *Autoridad Portuaria Dominicana* [Dominican Port Authority], *Corporación de Acueducto y Alcantarillado de Santiago* [Water and Sewerage Corporation of Santiago], second most important province in the country [CORASAAN as per its Spanish acronym]; *Asociación Dominicana de profesores* (ADP) [Dominican Association of Teachers] and the experiences of Collective Agreements in the Health Sector.

The unions which have joined to the CLATE* highlighted in this sense that as a result of struggles and the organization, “some collective agreements have been reached, as the increase to 20 thousand pesos for pensioned workers in the Health Sector, reaching a 200% increase, and although the increase of 100% in the wages of workers of the Health Sector has not been achieved yet”.

These exceptions take place as a result of a provision of the *Código de Trabajo* [Labor Code] (Law 16-92) in Principle III: “This law is applied to workers who render services in State enterprises and in their autonomous official bodies of the industrial, commercial, financial, or transport area”.

Moreover, this law which rules the private sector but which allows the treatment of conventions in these exceptional cases sets forth that the agreed terms “shall be valid from one year to three years”.

ABOUT BARGAINING

Bargaining may comprise all the aspects of the labor relation: wages, working hours, rest, holidays, licenses, working conditions, professional training, dismissal regime or ways of ending the employment contract, definition of professional titles, promotions.

It also enables to determine rules for the relations between unions and employers (representatives in workplaces, information and consultation, union mural, licenses and permits for union leaders, resolution of conflicts, etc.).

But only workers of the private sector included in the current Dominican labor legislation: Law 16-92 are entitled to this kind of bargaining.

In this context, the Collective Convention has an “*erga omnes*” (total respect) effect, since the conditions agreed in it are included in all the individual employment contracts of the enterprise, although they may refer to workers who are not members of the union which has executed it, which are modified by operation of law.

On the other hand, and as regards its scope within the private sector, there are three bargaining levels: by enterprise, at the professional or occupational level, and by activity branch.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization and anti-union policies

In light of Law 41-08 about the Public Function, unions of the public sector of the CLATE evaluated that: “we have made progress thanks to many struggles of the different sectors and we have reached the implementation of mechanisms for the protection of union representatives, as stability in positions of the administrative career, protections for public workers who are leaders of agencies of public services [ASPs as per its Spanish acronym], and specially the mechanism of Problem-solving, as the Personnel Commission, Ad-hoc Commission of the Ministry of Public Administration and the Administrative Court.

The legal systems established in: Law 123-15; Law 41-08; Constitution of the Dominican Republic and Convention 144 of the ILO, for the tripartite dialogue, are expressly authorized to provide the adequate advantages for labor relations of the Public Sector and the Private Sector.

Job Stability

Although Law 41-08 establishes the administrative career and stability in the position, unions express concern due to unfair dismissals in each government change.

There are also other legal frameworks as the Ad-hoc Commission of the Ministry of Public Administration for the resolution of conflicts, but unfair dismissals in the face of the change of government continue as a reality in the Dominican Republic.

The right to strike

Strike is not guaranteed for public servants, and that fact fosters the claim of unions of the Public Sector for the ratification of Conventions 151 and 154 of the ILO.

This occurs although the Constitution of the Dominican Republic (whose last reform was in 2015) sets forth in section 62, subsection 6: “In order to solve labor conflicts pacifically, workers’ right to strike is recognized and employers’ right to the stoppage of private enterprises, as long as they are exercised as prescribed by law, which shall set forth the measures to guarantee the maintenance of public services or services for the public benefit”.

**Organizations which are members of the CLATE which made this report:*

National Union of Nursing [UNASE-CASC as per its Spanish acronym].

National Federation of Health Workers of the Dominican Institute of Social Security [FENATRASAL-CASC as per its Spanish acronym].

National Confederation of State Workers [CONATE-CASC as per its Spanish acronym].

Association of Health Psychologists [ASOPSALUD-CASC as per its Spanish acronym].

National Association of Health Workers [ANTRASALUD-CASC as per its Spanish acronym].

National Federation of Female Workers [FENAMUTRA-CNTD as per its Spanish acronym].

POLITICAL ORGANIZATION OF THE URUGUAYAN STATE

The Oriental Republic of Uruguay adopted the democratic republican form of government which consists of three levels:

First level: National Government, which encompasses the three State Powers (Executive, Legislative, and Judicial). The first two are elected by universal suffrage, whereas within the judicial area and other autonomous bodies, decentralized services, Government Auditing Board, Electoral Court, and Administrative Court there are different ways of appointment (not universal suffrage).

Second level: Departmental Governments, composed by 19 departments governed by an Intendent and a Departmental Board of 31 members (councilmen), elected by universal suffrage.

Third level: Municipal Governments, composed by a mayor who presides the municipality and a municipal council composed by four members appointed by universal suffrage.

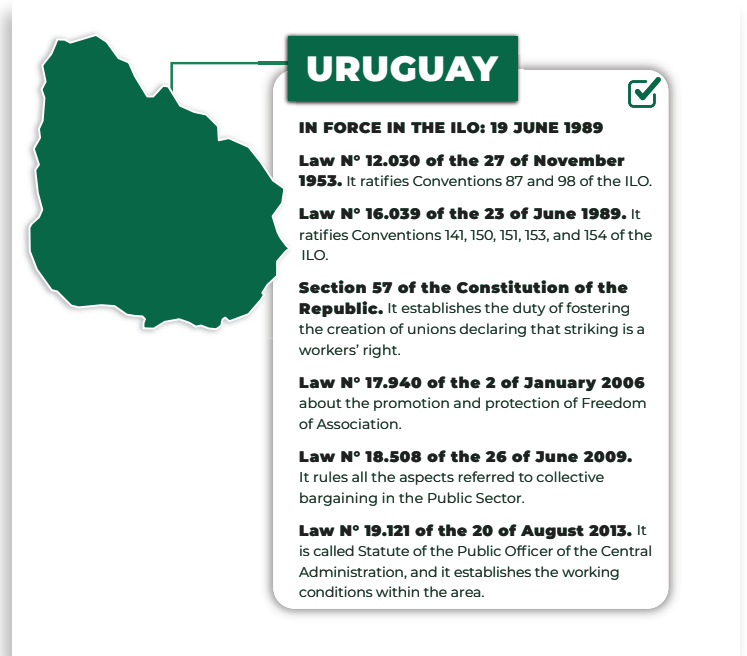
ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

- Central Administration (Ministries)
- Decentralized bodies (health, minors, meteorological, etc.)
- Public enterprises
- Departmental
- Municipal
- Legislative
- Judicial

LABOUR LAW IN THE PUBLIC SECTOR

Within the Public Sector, the Uruguayan legal system has the general characteristics of the general regime as regards Collective Labor Law. That is to say, it is a system which is not regulated, not codified, and composed by some national and international promotion rules. It is a system which tends to the out-of-court settlement through the strike and collective bargaining.

In this context, Conventions 151 and 154 of the ILO which rule labor relations within the state area were ratified by virtue of [Law N° 16.039](#) of the year 1989. The rule states: "The following international Conventions shall be passed: 141, 150, 151, 153, and 154 of the International Labor Organization". Moreover, after ten years the *Ley de Negociación Colectiva en el Sector Público* [Law of Collective Bargaining in the Public Sector] [N° 18.508](#), of the 26 of June 2009, was promulgated.



It enunciates that “the system of labor relations in the Public Sector is inspired and ruled by the principles and rights which are developed in this chapter, and by the internationally recognized fundamental rights (sections 57, 65, 72, and 332 of the [Constitution of the Republic](#))”.

Law N° 18.508 creates a “system of labor relations in the Public Sector”, including the right to participate, consultation and collaboration, as well as the obligation of bargaining in good faith and the right to access to information. It encompasses a wide range of issues subject to bargaining (section 4) as well as the structure of the system of collective bargaining (section 8 and subsequent sections) composed by a superior level (Tripartite Superior Council), a level by branch of activity and a third level by department or body.

In its analysis of the legal framework, the Uruguayan Association of Labor Lawyers [AULA as per its Spanish acronym], member of the ALAL, considers that the application of this law has been “deficient”, since “most union activity of the sector was in demand of its application”. Moreover, it mentions that “section 4 in fine establishes that the obligation of bargaining does not imply reaching an agreement, and this weakens the system even more in the practical area”.

And the Confederation of State Officers [COFE as per its Spanish acronym], member of the CLATE, explains the same: “This imposition operates as a relief valve which ultimately drains the system and converts it into a mere formality”.

ABOUT THE TYPES OF BARGAINING

According to Law 18.508, the bargaining areas are:

- Executive branch and unions of the Central Administration, and some non-commercial autonomous entities.
- Executive branch and unions of autonomous bodies and decentralized services (public enterprises).
- Executive branch and unions of the official banking.
- Executive branch and unions of different autonomous entities (Legislative branch, Judicial branch, Court of Administrative matters, Electoral Court, Government Auditing Board, Autonomous Bodies of Public Teaching).

For example, the Uruguayan COFE signed its last [Convention](#) with the authorities of the Central Administration in June 2022 and for an extended period up to the 31 of December 2025. There, a scale of annual wage raises and other aspects of the working conditions of the workers represented by this Confederation which gathers different unions of the Public Sector was established.

ABOUT BARGAINING

According to the legislation in force in Uruguay, collective conventions shall include the following items (section 4 of Law 18.508):

- Working conditions, health and hygiene.
- The design and planning of the professional training and development of employees in the public function.
- The structure of the functional career.

- The reform system of the management of the State, efficiency, quality, and professionalization criteria.
- Relations between employers and officers.
- Relations between one or among different public bodies and the corresponding organizations of public officers and all the agreements reached in the bargaining agenda”.

The same Law, in its section 3, states that this right is recognized to “all public officers with the exclusions, restrictions, and particularities included in section 9 of Convention N° 87 of the International Labor Organization passed by Law N° 12.030, on the 27 of November 1953, and in subsections 2 and 3 of section 1 of Convention N° 151 of the ILO, passed by Law N° 16.039, on the 8 of May 1989”.

Regarding the different areas of the Public Administration and the conventions which rule those activities, the same law, in its section 10, sets forth that: “Collective bargaining in the Executive branch and in the autonomous entities and decentralized services of the industrial and commercial domain of the State, shall operate at three levels: A) General or of superior level, through the *Consejo Superior de Negociación Colectiva del Sector Público* [Superior Council of Collective Bargaining of the Public Sector], B) Sectorial or by branch, through bargaining tables established according to the particularities or autonomous entities, C) By department or body, through bargaining tables between representative unions and the respective bodies”.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Freedom of Association

In Uruguay, public officers have the absolute right to form unions including the personnel of the Ministry of Internal Affairs (Police) and civil personnel of the Ministry of National Defense.

Its legal framework is composed by Conventions 87 and 98, ratified in the country in 1953, and section 57 of the Constitution of the Republic, as well as by different rules which protect that right, among them [Law N° 17.940](#), promulgated on the 2 of January 2006. This law establishes measures to facilitate the exercise of freedom of association (union license, union mural, withholding of union dues); the prohibition of anti-union acts and specific guardianship mechanisms, such as procedures of reinstatement of leaders, representatives and union activists.

Job Stability

In its section 60, the Constitution of the Republic sets forth that: “The law shall create the Civil Service of the Central Administration, Autonomous Bodies, and Decentralized Services, which shall have the duties established by it to ensure an efficient administration. The administrative career is established for the preestablished officers of the Central Administration who are declared irremovable, without prejudice to the provisions of the law by absolute majority of votes of the total number of members of each Chamber and the provisions of subsection 4 of this section. They may only be dismissed according to the laws established in this Constitution”.

On the other hand, [Law 19.121](#) of the 20 of August 2013, Statute of the Public Officer of the Central Administration sets forth that: “The one who has been appointed to a preestablished position to execute duties, and the one who having been appointed by virtue of a merit-based process or merit and background, and hired under the *provisoriato* regime [personnel who renders services by virtue of a written agreement for the period of fifteen months] and has exceeded the period of fifteen months and has obtained a satisfactory assessment for his / her development is a preestablished officer of the Executive branch. Preestablished officers are entitled to the administrative career and irremovability”.

The right to strike

Public officers in Uruguay are entitled to the right to strike, as provided by section 57 of the Constitution of the Republic. The personnel of the Ministry of Internal Affairs (police) and of the Ministry of National Defense (except civil personnel) are excluded from this right.

However, the right to strike is infringed due to many reasons. COFE mentions that the occupation of workplaces, fundamental instrument of union struggles, are prohibited in the *Ley de Urgente Consideración N° 19.889* [Law of Urgent Consideration], of the 9 of July 2020, which in section 392 establishes that “the State guarantees the pacific exercise of the right to strike, the right of non-strikers to have access and work in the respective entities and the right of businesses’ management to enter freely”.

COFE also provides another example about the restrictions on the right to strike for public officers: in the area of the Central Administration, where the Executive branch passed Decree N° 401/008 of the 18 of August 2008, it was established that: “wages of the officers of the Central Administration shall be reduced proportionately, the period in which they adopt union measures which mean the reduction of their duties within their usual working hours”.

In the expository part of the Decree, it is indicated that although work to rule measures, work done reluctantly, work stoppage, and other similar measures “are framed within the atypical exercise of the right to strike included in section 57 of the Constitution of the Republic”, they mean stop “rendering services proportionally which are in charge of officers”, which may affect the full wage perception, since according to the set of rules which is in force for the Central Administration, the perception of personal retributions and directly related charges are payable only when “the service has been effectively provided”.

Finally, COFE also reports other element which is used by the authorities of the Government against the right to strike is the declaration of the so-called “essential services”. For the union it is vital “to determine which are the truly essential services and which of them are not essential in order to avoid exercising them against the workers’ right to strike, as it has happened many times”.

POLITICAL ORGANIZATION OF THE VENEZUELAN STATE

The Bolivarian Republic of Venezuela is a decentralized federal State, and its government and political entities are democratically elected at the executive and at the legislative level. It is called democratic, participative, protagonist, elective, decentralized, alternative, responsible, pluralist state and of revocable terms of office.

Its territory is divided into 23 States, 1 Capital District (which encompasses a portion of the city of Caracas) and Federal Dependencies composed by 311 islands, cays and islets.



ABOUT WORKING STRATUMS OF PUBLIC SERVANTS

- National
- Provincial
- Municipal
- Public bodies and enterprises
- Legislative

ABOUT LABOR LEGISLATION IN FORCE

Convention 151 of the ILO has not been ratified by Venezuela.

However, the right to bargain collectively of public servants is encompassed in the [Constitution of the Bolivarian Republic of Venezuela](#), which in section 96 states: “All workers of the public and private sector are entitled to bargain collectively and voluntarily and to execute Collective Labor Conventions, without other requirements than the ones prescribed by law”.

Moreover, that section states that “the State shall guarantee their development and shall establish the necessary measures in order to favor collective relations and the solution of labor conflicts. Collective conventions shall protect all workers who are active at the moment of signing them and the ones who join subsequently”.

On the other hand, all the aspects related to Collective Bargaining of the Public Sector are regulated by the [Organic Law of Labor and Workers](#) [LOTTT as per its Spanish acronym], passed in May 2012, in special in its section 2, named “About Collective Labor Convention”.

The second part of that chapter, in its section 442, expresses that collective labor conventions shall include workers “of the National Public Administration area, autonomous institutes, foundations, associations, and State businesses”.

Regarding the legislation in force, the National Federation of Workers of the Public Sector of Venezuela [FENTRASEP as per its Spanish acronym] mentions the LOTTT as a progress, since between 1985 and 2012, when the current law was passed, workers of the Public Administration only had the so-called “Entry Convention of working conditions” as instrument. They explain that the union movement recognizes that the Collective Agreement has “more guaranty, more legal security”.

Finally, other aspects of labor within the State of Venezuela such as revenues, egresses, promotions, classification or reclassification of positions, administrative procedures or the workers’ participation in the government management, are comprised in a special law for the state sector called [*Ley del Estatuto de la Función Pública*](#) [Law of the Statute of the Public Function”, in force since September 2002.

ABOUT THE TYPES OF BARGAINING

Nowadays, the collective conventions applied in Venezuela are: Framework, National, State, Municipal, Sectorial, and by labor entity. There are multiple negotiations of collective conventions according to the economic, geographic and financial capacity of each region.

FENTRASEP explains that nowadays “the Collective Agreement has more force than a simple Entry Convention. And, for that reason, we began signing the so-called Collective Framework Agreements. And that means that the working conditions agreed there are a reference for sectorial agreements”.

A Ministry or any other state entity may have its collective agreement, but it shall maintain or improve, never go back, in the conditions determined by the so-called Framework Agreement. The federation which gathers together Venezuelan public servants has already participated and signed five collective conventions since the Law which regulates them has begun to be applied.

The last [*Collective Framework Convention*](#) signed between the authorities and unions of the Public Sector was published in the Official Gazette on the 26 of October 2016, and it was valid for a period of two years. In this respect, FENTRASEP reports that “some items have been updated, but we have not had the opportunity of bargaining a new Agreement. However, our organization has already submitted a new proposal to the Ministry of Labor and we hope an improvement in the financial situation of the Republic in order to discuss with the corresponding authorities”.

ABOUT BARGAINING

In the collective conventions of Venezuela apart from the claims referred to the wage issue, other aspects are proposed, such as: the creation of an Institute of Social Welfare for state workers, the creation of schools of technical training and development, general working conditions, as well as the development of the mechanisms of working-class participation in exercise of the real power and comprehensive defense of the homeland.

Regarding public servants' social protection, it is important to remember that the Framework Collective Convention protects retirees and pensioners of the Public Administration, who have always been excluded from these conventions.

The Framework Agreement encompasses all the institutions of the central Public Administration, which are of a general nature, and there are also collective conventions by body and sectorial or by branch.

OTHER ASPECTS OF THE ORGANIZATION OF PUBLIC SERVANTS

Unionization

The right of Venezuelan public servants to unionization and freedom of association is guaranteed not only in the Constitution but also in the LOTTT, which sets forth: section 356: collective rights of freedom of association; section 357: prohibition of anti-union practices, and section 358: prohibition of employer interference.

Anti-union policies

According to section 357 of the LOTTT, in Venezuela there is the "Prohibition of employer interference", expressed as follows:

"Employers shall not:

- a) Force the applicants to abstain from their union rights or from being a member of a certain union;
- b) Intervene on their own behalf or by virtue of a representative in the constitution of a union of workers;
- c) Support financially, or in any way, unions of workers;
- d) Hinder or intervene in the acts developed by unions of workers in exercise of their autonomy, as the election of their board of directors and the discussions about the lists of claims.
- e) Discriminate workers due to their unionization.

And, it sets forth that: "The violation of these provisions shall be subject to a sanction as prescribed by this Law".

Job Stability

The Constitution of the Bolivarian Republic of Venezuela sets forth, in its section 87, that "Everybody has the right to work and the duty to work. The State shall guarantee the adoption of the necessary measures in order for any person to obtain a productive occupation which provides a dignified and decent existence and guarantees the full exercise of this right. The State's aim is to foster the employment. The law shall adopt measures tending to guarantee the exercise of the labor rights of independent workers. Job freedom shall not be subject to other restrictions apart from the ones prescribed by the law".

Moreover, job stability is also included in sections 85, 86, 87, and subsequent sections of the LOTTT, which conceptualize and define the guarantee of stability as follows: “Every worker has the right to job stability, if there are no reasons which justify the end of the labor relation”.

The right to strike

This right is guaranteed in section 97 of the Constitution: “All workers of the public and private sector have the right to strike, within the conditions prescribed by law”.

Also, the LOTTT in its third article: ABOUT THE STRIKE, expresses:

Section 486. A strike is the collective stoppage of the duties of workers interested in a collective labor conflict. The collective presence of workers shall be allowed in the workplaces, once the strike is declared.

The right to strike may be exercised in the public services when their stoppage does not cause irremediable damages to the population or institutions.

Requirements of the strike

Section 487. In order for the workers to start a strike it is necessary:

- a) The submission of a list of petitions according to this Law.
- b) The essential minimum services must have been determined and the essential public services which shall not be affected by the stoppage.
- c) One hundred twenty hours since the admission of the list of petitions.

OTHER COUNTRIES WHICH RATIFIED CONVENTION 151 IN OUR REGION



BELIZE

**IN FORCE IN
THE ILO:**

22 JUNE 1999



GUYANA

**IN FORCE IN
THE ILO:**

10 JANUARY
1983



SURINAME

**IN FORCE IN
THE ILO:**

29 SEPTEMBER
1981



ANTIGUA AND BARBUDA

**IN FORCE IN
THE ILO:**

16 SEPTEMBER
2002



