



# **Targeted Surveys on application of core labour standards Colombia**

**Written by Ergon Associates  
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**EUROPEAN COMMISSION**

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Directorate-General for Employment, Social Affairs and Inclusion  
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# Targeted Surveys on application of core labour standards, Colombia

This report has been developed to provide a picture of the application of core labour standards in Colombia. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

## Progress

- Conflict-related forms of labour exploitation
- Overall child labour rates
- Efforts to address worst forms of child labour and human trafficking
- Legalisation to regulate subcontracting
- Labour inspection and enforcement capacity

## Challenges

- Violence (lethal and non-lethal) against trade unionists
- Judicial backlog and sense of impunity
- Restrictions on right to strike
- Anti-union discrimination
- Use of subcontracting to thwart unionisation and collective bargaining

## Key context

Colombia's economy has performed well over the last decade, initially driven by an oil and mining boom. Following a slowdown in these sectors, as a result of falling international commodity prices, other sectors such as services, agriculture and manufacturing have become engines of growth in more recent years. Despite growth, deep socio-economic challenges remain – including societal discrimination, inequality, corruption, violence and what is perceived as a climate of impunity. Nevertheless, owing to its economic progress, Colombia was invited to become a member of the OECD in May 2018. Trade unions have been critical of the accession, citing inadequate progress on labour issues.

Colombia's political, civic and socio-economic life is deeply affected by the internal armed conflict, which has been ongoing for more than five decades. A peace agreement reached between the Colombian government and the Revolutionary Armed Forces of Colombia (FARC) in 2016 brought a demobilisation of the FARC and hope of end to the conflict. Initial optimism was swiftly followed by weak popular support for the agreement, which was nonetheless approved by Congress in late 2016. This was somewhat reflected in the June 2018 presidential election victory of Ivan Duque, the conservative candidate, who has been openly critical of the peace deal. The long-running armed conflict has had serious implications for the application of core labour standards, including effective absence of the State and non-enforcement of labour laws in parts of the country, particularly some rural areas. The conflict has also left millions of Colombians internally displaced, which is believed to have fuelled cases of forced labour, human trafficking and child labour. Subsequently, there is a widely-shared hope that the apparent end of the conflict will significantly improve the enjoyment of core labour standards in Colombia.

Colombia has and is continuing to make considerable progress on core labour standards issues. While weak enforcement remains a central constraint, government has reportedly allocated significantly greater funding and resources to the inspectorate and other enforcement bodies in recent years.

While the peace process will lead to a natural reduction in certain labour rights breaches, there is a possibility that structural constraints, such as the absence of enforcement in rural areas, will require significant state intervention. Lastly, some have voiced concerns about a potential decline in international scrutiny of Colombia and the potential consequences this may have on the application of core labour standards going forward.

## **Freedom of association and collective bargaining**

Although Colombia's legislative framework is considered broadly adequate in relation to freedom of association and collective bargaining, there are some identified gaps. These include: some restrictions on the right to strike and bargain collectively, and the inability of the legal framework to adequately prevent employers from circumventing the law to thwart worker attempts to organise or bargain collectively. The latter is allegedly brought about by the misuse of certain subcontracting arrangements.

In practice, Colombia is one of the most dangerous countries in the world for workers – with more trade unionist murders in 2017 than any other country. Anti-union discrimination and employer attempts to block or restrict worker organisation are reported to be commonplace. Central to this is poor law enforcement on the part of the inspectorate and judiciary, which leads to perceptions of widespread impunity. While Colombia remains under great international scrutiny owing to this grave situation, some meaningful progress has been broadly recognised. This includes steps to amend legislation and attempts to regulate subcontracting practices, as well as substantially increasing funding to the inspectorate, the Special Investigations Unit, and the National Protection Unit for unionists.

## **Forced labour**

With respect to forced labour, Colombian legislation is considered to be broadly consistent with international standards, with gaps persisting in relation to compulsory military service. Nevertheless, there are some outstanding issues, particularly: sex trafficking; forced labour in mining, agriculture; and forced recruitment by armed groups. The armed conflict is considered a key driver of this situation, and victims have traditionally been those most affected the violence. Subsequently, it may be that peace brings a decrease in these cases. Generally, there is a positive evaluation of efforts made by Colombia regarding trafficking. Recent advancements include a legislative reform removing requirements on victims to lodge complaints before receiving assistance, new public awareness campaigns and notable collaboration with international agencies and foreign governments to tackle human trafficking. Nevertheless, workers' organizations note a need for more targeted interventions by government in rural areas, and a continued lack of finances preventing adequate enforcement and victim support.

## **Child labour**

Colombian legal framework is generally considered to be in line with relevant ILO Conventions on the minimum age and the prohibition of worst forms of child labour. Despite continued declines in prevalence, child labour is still an issue in Colombia –

including in its worst forms. Work in agriculture, mining, commercial sexual exploitation, and the continued use of minors who were forcibly recruited by armed groups, are the most commonly-identified forms. Overall, there is a general view that Colombia has made significant efforts to eliminate the worst forms of child labour in recent years, including through mobile inspection, targeted programmes, awareness campaigns, improve coordination and recent procedures to rehabilitate child soldiers. There is optimism that further declines will be witnessed as peace progresses. Nevertheless, access to education, poverty and socio-cultural norms remain notable challenges.

## **Discrimination**

While there are some inconsistencies with relevant ILO conventions, Colombian non-discrimination legislation is viewed to be reasonably comprehensive. Persistent gaps relate to the principle of equal remuneration for work of equal value, as well as sexual harassment protections. Discrimination in employment, particularly based on sex, race and disability, is identified as a continuing issue in Colombia. Deep-rooted societal discrimination and patriarchal norms are identified as the major constraints to remedying this. While there are some notable efforts to tackle gender and disability related discrimination at work, some report a continued absence of efforts to tackle racial discrimination.

## **Other working conditions**

Colombia's labour market is shaped by very high informality (67%), especially in rural areas, and this is a significant barrier to providing decent work. Transitions to formal employment are minimal and that formal opportunities created in recent years tend to be temporary or self-employed roles, which reportedly serves as an additional barrier to raising social security affiliation. In a regional comparison, Colombia also has fairly high-unemployment (10%), most affecting young people and women.

**Occupational safety and health.** OSH legislation is considered to be adequate, up-to-date and relevant to key industries. Inspectors reportedly lack OSH training and rarely reach rural and isolated areas, whereas penalties for violating OSH regulations are comparatively low and not always collected. A major constraint is that the large informal sector falls outside protections – and this is particularly a concern in mining and agriculture, which are the highest-risk for OSH issues. Furthermore, informal workers in certain sectors claim they may not report OSH issues through fear of dismissal.

**Working time.** Legal exceptions apply for agricultural and domestic workers, who are a sizeable amount of the workforce in Colombia. Other exceptions to maximum working hours can be granted by authorities, and are often granted in the mining sector, resulting in long work days, reportedly fuelling OSH incidents. Hours can reportedly be very long in the export-oriented floriculture sector (16-20 hour days) with few to no breaks, particularly during periods of high consumer demand, when overtime can reportedly be mandatory. Whereas unions express particular concern over regularly excessive hours worked by domestic workers.

**Employment protection legislation.** The reinstatement of illegally-dismissed workers is often slow and ineffective, owing to overburdened and corrupt courts (USDOS, 2018). While verbal contracts are permitted under Colombia law, note that agricultural and domestic workers generally only have verbal agreements, leaving them at higher risk of exploitation, and providing them little job security. In many key sectors (agriculture, floriculture, mining), temporary and fixed term contracts, often through subcontractors,

are reportedly common and growing. Reports suggest that this creates an ease of hiring and firing that provide workers with little security.

**Social security coverage.** Social security coverage is low, particularly in rural areas and among agricultural workers. Trade unions report that 67% of workers are not covered by health, pensions, and accident protection. Low social security coverage rooted in high unemployment (in a regional comparison), increasing self-employment and temporary roles, continued high informality and non-compliance among employers. Nevertheless, national stakeholders and internal observers recognise recent government efforts to increase formality, bolster social security and crackdown on employers who do not pay workers' contributions.

## Status of ratification and reporting

Colombia has ratified all eight ILO fundamental (core) labour conventions and three of the four ILO governance (priority) conventions. It has not ratified C122 on Employment Policy. Colombia fulfilled its reporting obligations to the ILO supervisory machinery in 2017.

		<b>Application issues - latest ILO CEACR observations and direct requests on core conventions</b>
<b>Freedom of association &amp; collective bargaining</b>	C87	(2017): Noted restrictions on FoA for certain workers (retired, unemployed etc). Also noted that convictions for anti-union violence had fallen, and judiciary's capacity had declined. Requested information on collective bargaining by sector and govt response to allegations of continued use of trade union contracts.
	C98	(2017): Repeated request for legislative amendment to ensure that collective pacts only in absence of trade unions.  (2017): Requested govt amend legislation to allow apprentices' remuneration to be agreed through collective agreements. Requested information on the impact of legislative amendments intended to improve procedures for labour arbitration tribunals.
<b>Forced labour</b>	C29	(2015): Repeated request to amend legislation on compulsory military service. Requested information on efforts to tackle trafficking, including prosecutions and collaboration with foreign governments.
	C105	<i>No recent comments.</i>
<b>Child Labour</b>	C138	(2018): Requested govt indicate whether policy for prevention and eradication of child labour (2016–26) has been finalised.
	C182	(2018): Requested information on govt efforts against trafficking of children for commercial sexual exploitation, and dissuasive penalties for forced recruitment of children by armed forces. Also requested govt continue measures to remove and rehabilitate child soldiers and provide information on such.  (2018): Requested information on measures ongoing to tackle child labour in small scale mining, and statistics on vulnerable children removed from worst forms of child labour by mobile inspection units.
<b>Discrimination</b>	C100	(2017): Repeated that legislative protection for equal remuneration for work of equal value is too narrow. Noted that monitoring of equal



		pay is limited by legislation to larger companies.  (2017): Requested enforcement information on equal remuneration for work of equal value. Requested that current bill to amend legislation be amended to eliminate confusion between performance appraisals and objective job evaluation.
	C111	(2017): Requested govt amend legislation to repeal “mitigating circumstances” provided for harassment at work and extend protections to all workers. Requested impact reports on programmes and policies tackling racial discrimination.  (2017): Noted authorities register sexual harassment cases at work together with broader harassment, impeding analysis. Requested information of enforcement against workplace harassment.

## References

ILO CEACR, [Observations and Direct Requests for Colombia](#).

US Department of State, 2018, [Colombia Human Rights Report 2017](#).