



# **Targeted Surveys on application of core labour standards El Salvador**

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

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# Targeted Surveys on application of core labour standards, El Salvador

This report has been developed to provide a picture of the application of core labour standards in El Salvador. 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

- Prosecution of forced labour
- Reduction of cases of discrimination against women
- Reduction of instances of worst forms of child labour

## Challenges

- Failure to reinstate the CST
- Anti-union discrimination and use of gang violence to deter unionisation
- Political interference with worker and employer organisations
- Low unionisation rates
- Discrimination against persons with disabilities and LGBTI persons, and lack of data on the matter
- Low number of prosecutions for official complicity in forced labour
- Lack of judicial efficiency and independence
- Low number of CBA

## Key context

El Salvador has shown consistently low levels of growth in the last decade. The slow economic growth of past years has translated into high rates of poverty, albeit with a modest reduction in recent years. However, within this trend incomes for the poorest 20% of the population has increased.

International observers, including the US State Department, list corruption, weak rule of law, impunity, and a lack of complete control of the armed and security forces - with accounts of forced disappearances, torture and cruel, inhuman, or degrading treatment, and lethal police abuse, as sources of concern for the country (USDOS, 2017). Violence and crime are significant and well-documented issues in El Salvador, with the prevalence of gangs depleting governmental resources. The widespread violence has serious implications for the country's governance and social and economic development, including the application of core labour standards.

## Freedom of association and collective bargaining

El Salvador's legislation is generally aligned with international standards, except for some gaps in legislation identified by the ILO CEACR and echoed by stakeholders. The failure to reactivate a legally mandated tripartite Superior Labour Council (CST) has been highly controversial.

While the government reports a general increase in unionisation rates and the protection of workers' rights, some sectors have low unionisation rates, particularly in the maquila

and agricultural sectors. In addition, the ILO CEACR has noted with concern the low number of CBAs registered, especially in the public sector. There have been complaints to the ILO that there is government interference regarding the registration of union and employer organisations, as well as reprisals against organisations and workers not aligned with the administration's political views. There are reports of anti-union discrimination, including through threats, dismissals, blacklisting, and obstacles to career development. Gangs have been reportedly used to threaten workers attempting to form unions. Corruption, bribes, and pay-offs between employers and union leaders are also alleged to occur.

## **Forced labour**

The legislative framework related to forced labour is largely in line with international standards, however international observers report cases of exploitation and forced labour in the maquila, fishing, domestic, and agricultural sectors. Inadequate enforcement efforts and prosecution of forced labour, insufficiently dissuasive fines, corruption and official complicity, the treatment of victims as criminals, and a lack of understanding of the concept of trafficking by officials are also concerns for stakeholders.

High levels of societal violence and a deteriorating economic climate in El Salvador are believed to increase vulnerability of the poorest communities to practices that may amount to forced labour in the form of servitude to gangs.

## **Child labour**

Despite broad legislation against child labour, it is reportedly a widespread problem. The latest government survey estimates that in 2017, 130,157 minors between the ages of 5 and 17 were engaged in child labour, with 88,422 children performing dangerous work. Local stakeholders and international observers note that most child labour is present in rural areas in agriculture, and the worst forms of child labour take place in sugarcane and coffee cultivation, fisheries, mollusc shucking, in the production of fireworks, and through gang recruitment to conduct criminal activities. Nonetheless, government, civil society and private sector efforts have reportedly decreased rates of the worst forms of child labour by 90%.

Inspections are criticised as being inadequate, particularly in the informal and agricultural sector, and penalties insufficient to deter violations. There is also a reported lack of resources for specialised agencies and lack of interagency cooperation. Economic necessity, tied to poor access to education, limited job opportunities, violence and crime, and a cultural understanding that work is necessary for the formation of children are said to fuel child labour in the country.

## **Discrimination**

Despite a general prohibition on discrimination, international observers report that discrimination is present in the country, particularly against women, persons with disabilities, LGBTI persons, and HIV affected persons.

Women in rural areas and the maquila sector are reported to be particularly affected by discrimination in employment, with exploitative conditions of work, sexual harassment, and dismissals because of pregnancy. Gang violence has reportedly deepened gender

inequality in the country. However, stakeholders report some progress in eradicating discrimination against women.

## Other working conditions

There are high levels of informality and poor conditions of employment, especially in the agriculture, maquila and construction sectors. Youths experience the greatest difficulty accessing decent work.

**Maternity protection.** According to the Ministry of Labour over 100 women complaint that they had been dismissed because of pregnancy in 2017. There are also reports that women in the maquila sector are deprived of maternity benefits. A 2018 change in the law introduced a 6-month period during which women may not be dismissed after maternity leave.

**Wages.** In 2017, the minimum wage was increased, amidst clashes between the employer, worker and government sectors and allegations of corruption. Workers in the maquila and agricultural sectors receive the lowest wages, with claims that these are inadequate to provide for their needs. Social partners also note problems with non-payment of wages in the construction sector.

**Employment protection legislation.** There are reports of maquilas suddenly closing without respecting their obligations towards workers.

**Social security coverage.** A reform of the social security system was passed in 2017, reportedly incorporating unions' requests. Government statistics indicate only 34 out of 100 persons are covered by the social security system, with agricultural workers excluded from receiving benefits. There are reports that that some employers in the maquila sector fail to pay social security contributions.

## Status of ratification and reporting

El Salvador has ratified all eight ILO fundamental (core) labour conventions. El Salvador has also ratified all four ILO governance (priority) conventions.

		Application issues - latest ILO CEACR observations and direct requests on core conventions
Freedom of association & collective bargaining	C87	<p>(2017): Noted the need for amendments to the following legislative provisions: the limitation of workers' ability to be members of more than one union; the requirement of 35 workers or 7 employers to form an organisation; the requirement that the names of founding union members must be registered; the 6-month waiting period to introduce new requests after registration denial; and the prohibition against foreign nationals serving as union leaders.</p> <p>(2017): Requested that the govt amend its laws, including removing provisions related to excessive limits on public sector workers' right to strike; ensuring that only cast votes are counted to call a strike; modifying excessively restrictive majority support requirements for strikes; and ensuring the right of non-strikers to work and of employers to access premises. The ILO CEACR noted govt proposals</p>

		to make such changes.
	C98	(2018): Noted the need for changes to legislation to explicitly prohibit interference with union activity; modify the 50% worker representation requirement for unions to enter into CBA; ensure that renegotiation of in-force CBA occurs only if requested by both parties; provide for judicial remedies for denials of CBA registration; eliminate the requirement for ministerial approval for public sector CBA; and allow certain public employees to fully enjoy the right to freedom of association. Also noted claims of anti-union discrimination against public sector workers and that fines are not sufficiently dissuasive.
<b>Forced Labour</b>	C29	(2015): Encouraged the govt to take measures to protect workers in rural and indigenous communities from practices amounting to forced labour. Also noted the government had established shelters for children and female victims of trafficking, but not for male victims.
	C105	(2012): Requested the amendment of the Penitentiary Law, which imposes a duty on prisoners to work, so that it reflects government indications that the work is voluntary in practice.
<b>Child labour</b>	C138	(2018): Repeating previous comments it noted government efforts to combat child labour, but requested the government nonetheless strengthen its efforts, particularly in rural areas and for children engaged in hazardous work, since child labour rates in these conditions were particularly high.
	C182	(2018): In its previous comments, it had requested that the government investigate and prosecute persons engaged in child trafficking, noting a low number of sentences.  (2018): Expressed concern over cases of boys and girls being “handed over” to families for domestic work in poor conditions.
<b>Discrimination</b>	C100	(2017): Requested that the govt establish mechanisms to ensure equal pay for work of equal value, and that it provide training to inspectors on the issue.  (2017): Requested that the govt amend its narrow legislative definition of equal pay for equal work which is not in line with C100.
	C111	(2017): Noted institutional efforts to provide for equal opportunities in the workforce for women and indigenous peoples.  (2017): Noted reports of pregnant women being dismissed or discriminated against, and of sexual harassment. It also noted that the law does not fully define sexual harassment. It also noted that the law prevents persons affected by an infectious/contagious disease from entering public service. On the other hand, it noted that the law was reformed to prohibit discrimination based on HIV status and to prohibit HIV testing by employers.

## References



ILO CEACR, [Observations and Direct Requests for El Salvador](#)

US Department of State (USDOS), 2017, [Country Reports on Human Rights Practices for 2017 – El Salvador](#).