



IUF - International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations  
UITA - Unión Internacional de Trabajadores/as de la Alimentación, Agricultura, Hotelería, Restaurantes, Catering, Tabaco y Afines  
UITA - Union internationale des travailleurs-euses de l'alimentation, de l'agriculture, de l'hôtellerie-restauration, du catering, du tabac et des branches connexes  
IUL - Internationale Union der Lebensmittel-, Landwirtschafts-, Hotel-, Restaurant-, Catering- und Genussmittelarbeiter-Gewerkschaften  
IUL - Internationella unionen för livsmedels-, njutningsmedels- och lantarbetareförbund samt förbund inom hotell-, restaurang- och cateringbranschen

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Geneva, February 19, 2021

## **Article 24 Representation against the Government of Guinea Concerning Violations of ILO Conventions 81, 95, and 187<sup>1</sup>**

Dear Director-General,

Workers in the hotel sector in Guinea, including those working for major multinational hotel companies, face serious obstacles to the exercise of their rights at work.<sup>2</sup> This representation focuses on the failure of the Government of Guinea (GOG) to maintain a functioning labour inspection system, to ensure the timely payment of wages to all workers and to carry out a national policy on the promotion of occupational safety and health. Because the GOG is in breach of its legal obligations under ILO Conventions 81, 85 and 187 (the first two of which it ratified over sixty years ago), the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) files this representation under Article 24 of the ILO Constitution.

We urge the ILO Governing Body to deem this representation receivable at its 341st Session (March 2021), pursuant to Article 2 of the *Standing Orders Concerning the Procedure for the Examination of Representations*.<sup>3</sup> The Governing Body should thereafter establish an ad-hoc tripartite committee pursuant to Article 3 of said Orders to examine the claims herein and issue recommendations to the GOG necessary to bring its laws and practices into compliance with the aforementioned Conventions.<sup>4</sup>

<sup>1</sup> Guinea became a member of the ILO on 21 January 1959. Guinea ratified Convention 81 on 26 March 1959, Convention 95 on 21 January 1959, and Convention 187 on 25 April 2017.

<sup>2</sup> Issues concerning serious violations of the right to freedom of association are being filed separately in a complaint to the Committee on Freedom of Association.

<sup>3</sup> *Standing Orders Concerning the Procedure for the Examination of Representations*, Art. 2 [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/meetingdocument/wcm\\_041899.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/meetingdocument/wcm_041899.pdf).

<sup>4</sup> *Id.* at Art. 3.

## Statement of Facts

### A. Facts Relevant to Convention 81

As a general matter, the GOG makes little effort to maintain a functioning labour inspection system. As evidenced in the photos below, the labour inspectorate building is a small, dilapidated structure. Workers report that the building is unsafe and unsanitary. During rain, water flows freely through the roof and into the offices and meeting spaces. The conference room is sparsely furnished with only benches, and the labour inspectors are crammed into a few small offices, with only a few old computers to share among them. The poor state of the inspectorate building sends a clear message to employers that the government puts no priority on labour inspection and that employers can (and do) avoid accountability by using political connections or bribery.



The GOG does not ensure compliance with labour laws through labour inspections. Workers at SGC report that to the extent they ever see an inspector, the inspectors do not ask about problems and only talk with the human resources manager – bypassing the union and the workers. They report that this is common in the sector. On one occasion, the union sent a letter to the Inspector General on 27 August 2020 concerning accusations that the union had threatened the Deputy General Manager of the SGC when in fact the management agreed to talk with the union concerning the unjust dismissal of a worker over a broken flowerpot, which the union sees as a pretext to undermine the union. The letter also described subsequent intimidation of workers, including one-on-one captive audience meetings. The inspector refused to meet with the union in the workplace and later insisted that they come to the inspectorate, but in the presence of management. This violates Article 3 of the Convention.

Inspectors are civil servants who are appointed by the executive power and therefore subject to the terms of employment of civil servants. The GOG does not ensure that inspectors are independence from the government and free from improper external influences. With regard to the dismissal of union leaders at the SGC, the regional inspector authorised the employer to fire the leaders. He did so without ever having organized a meeting in the workplace between the management and the union to ascertain the facts or to find a solution. He later explained that he was told that this was a sensitive case and that he could easily be replaced if he did not authorize the

dismissals. Of note, the owner of hotel is very well connected politically as is known to give gifts to senior political officials. This violates Article 6 of the Convention.

The GOG currently has 74 labor inspectors in Conakry and 7 for the rest of the country, for a total of 81. It is estimated that the economically active population of the country is approximately 4.4 million people. As an LDC, the ILO has previously recommended a ration of 1 inspector to 40,000 workers. At that ratio, Guinea would need at least 110 inspectors. Moreover, given that the vast majority of the population is employed in agriculture, more inspectors outside of Conakry would indeed be necessary to be able to inspect such rural workplaces, or indeed urban workplaces in other cities. As the GOG has an insufficient number of inspectors, it is in violation of Article 10. We understand that the GOG has a number of trainees within the inspectorate which could be added to the 81. However, it is unclear what authority these trainees have and whether all current trainees will become inspectors.

The GOG does not maintain a cadre of labour inspectors who are adequately trained with regard to occupational safety and health, in violation of Article 9 of the Convention.

The GOG does not provide labour inspectors the necessary equipment and transportation to perform their functions effectively. As mentioned above, few inspectors have access to a computer and work in a cramped and unsafe office. The inspectorate does not provide vehicles for the inspectors, and thus they must use their own vehicles or take public transportation. Inspectors must also use their own phones. On information and belief, inspectors are not consistently reimbursed for these expenses. The lack of vehicles, and the paid expenses means that inspections are rarely carried out outside of the capital city. This violates Article 11 of the Convention.

While the law grants such authority, the GOG does not always ensure that labour inspectors are able to enter workplaces freely and without prior notice.<sup>5</sup> Workers report that inspectors are at times frustrated from entering workplaces to conduct inspections. Workers explain that this is a particularly serious problems on Chinese financed projects. Failure to ensure that inspectors can access workplaces to conduct inspections violates Article 12 of the Convention.

Finally, according to official statistics obtained by petitioners, there were 240 inspections initiated in 2020, covering a total workforce of 14,211 employees (of which 9,792 are registered with the Social Security Fund). Inspectors issued letters of observation for minor labor law violations in 39 companies, and immediate formal notice for 12 companies. Employees also filed 362 requests for dispute settlement to the labor inspectorate. Of these, 287 were resolved, 30 were referred to the labor court and 4 were withdrawn by the complainants. Unfortunately, the data obtained do not reflect whether these violations were remediated and whether fines or other sanctions were issued as a result of inaction and whether such fines were collected. It is also unclear whether complaints which were resolved were resolved to the satisfaction of the workers involved and consistent with their rights.

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<sup>5</sup> Pursuant to (Article 513.8 of the Labour Code), inspectors can enter workplaces subject to inspection freely and without prior warning, at any time of the day and night. They can access any documents they wish and collect evidence without any restriction.

## **B. Convention 95 on Payment of Wages**

Hotel workers, and in particular workers at the Sheraton Grande Conakry (SGC)<sup>6</sup>, allege that the employer has engaged in illegal deductions from their wages. In particular, workers have reported that SGC has a practice of deducting wages from workers' pay checks for the days they are absent for illnesses. Under Guinean law, employers have a legal obligation to pay workers' wages during sick leave, and as such the deduction of wages for the days absent for illness is illegal. The failure of the government to ensure compliance with laws governing wage deductions violates of Articles 8 and 9 of Convention 95.

For workers who are absent due to long-term illness, the SGC has paid no wages despite a requirement under Guinean law that the employer pay 50% of wages during a long-term illness with the state paying the other 50%<sup>7</sup>. The non-payment of wages is a clear violation of the law. Long-term absence at SGC is compounded by the fact that the employer, unlike other similar hotels, provides no health coverage to its workers. With no coverage, and wages insufficient to cover the cost of medical care, workers tend to be sicker and for a longer period of time and take longer to recover from their illnesses. Whether framed as the non-payment of wages, or as a deduction from wages, it is nonetheless a violation of Convention 95.

Workers also report that the SGC regularly pays workers their wages late. While Guinean law provides that wages can be paid bi-weekly or monthly, monthly wages should be paid at the end of the month. Workers report that SGC often pays the wages 5-8 days into the following month. Management for SGC has at times apologized for the lateness of the payment, recognizing that they are in violation of the law, but do not explain why payment is delayed. Other similar hotels pay more punctually. Of note, SGC has paid on time last 2 months (December and January), which is evidence that they can pay on time if it so desires. The late payment of wages violates Article 12 of the Convention and Article 4 of Recommendation 85.

## **C. Convention 187 on the Promotional Framework for Occupational Safety and Health**

Workers in the hotel sector report that the GOG fails to comply with this convention in nearly every respect. This is particularly troublesome given the global pandemic, which is affecting workers and their families in every country.

The GOG does not ensure compliance with national laws and regulations concerning health and safety. As explained above, labour inspectors never meet with workers or unions during the rare inspection, and frequently take bribes from the employers in exchange for inaction on the labour violation. This also violates article 4 of the Convention.

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<sup>6</sup> Marriott International is the parent corporation of Sheraton Grande Conakry. The project was financed in part from a loan from the International Finance Corporation.

<sup>7</sup> According to the Social Security Code, in the event of an accident or occupational disease, in addition to medical care, the Social Security Fund (CNSS) must, in the event of temporary incapacity, pay the registered employee a daily allowance of 50% of his daily pay. The rest is borne by the employer. This allowance is paid for the entire period of incapacity for work that precedes the complete recovery or consolidation of the injury. See Articles 63, 64, 68, 72, 73 74 et seq. of the Social Security Code.

The GOG does not provide appropriate measures for the protection of all workers with a view to preventing occupational injuries, diseases and deaths. The SGC, and hotels generally, do not provide personal protective equipment, such as masks and gloves, when workers are exposed to cleaning solvents used in the kitchen, laundry and in room cleaning. As a result, workers suffer skin and respiratory problems as a result of this exposure. When asked, managers explain that they do not maintain such equipment. With the outbreak of the pandemic, employers have provided masks, which again underscores that some such equipment is available but is simply not provided. This also violates Article 4 of the Convention and Article 3 of Recommendation 197. Additionally, no measures appear to be taken to protect the reproductive health of women workers<sup>8</sup>, in violation of Article 4 of the Convention and Article 4 of Recommendation 197.

The GOG does not promote awareness of OSH issues at the level of the general public or at the workplace, nor does it facilitate workplace training on OSH issues. SGC workers responded that they have never received any OSH training, except that provided by the union. This violates Article 4 of the Convention and Article 5 of Recommendation 197.

Though required in law, the GOG does not promote, at a workplace level, the establishment of safety and health policies and joint safety and health committees with a view to eliminating or minimizing work-related hazards and risks.<sup>9</sup> There is no joint committee at the SGC and workers are unaware of such committee in other hotels in the country. Official statistics reflect that a mere 2 such committees were established nationally in 2020. This violates Article 4 of the Convention and Article 5 of Recommendation 197.

## **Conclusion**

The aforementioned violations are the result of structural problems and the general lack of political will on the part of the GOG to overcome them. As such, we do not believe that these matters can be redressed through existing domestic legal procedures, and to the extent domestic procedures have been used, they have proven ineffective. Thus, we now bring these matters to the International Labour Organization for review. For all of the facts and reasons herein, we urge the ILO Governing Body to deem this representation receivable and to establish an ad-hoc committee to review this representation against the government of Guinea and to issue appropriate conclusions and recommendations.

Sincerely,



Sue Longley, IUF General Secretary

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<sup>8</sup> Under Article 231.5 of the Labour Code, work likely to affect the reproductive capacity of women or the health of pregnant women and their children is prohibited or subject to special conditions.

<sup>9</sup> Article 231.2 paragraph 2 states: "All establishments or companies regularly employing at least twenty-five employees must set up a health and safety committee. This committee's mission is to study, develop and oversee the implementation of preventive and protective occupational safety and health measures...".