

AFL original submit

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Summary of
Petition to Review the GSP Status of

COSTA RICA

Submitted by the AFL-CIO
June 1, 1993

Introduction: Although Costa Rica is known as a model of democracy and peace in Central America, its record is marred by worker rights violations both in law and practice. As a result, only 5% of the private sector is unionized, there are few collective bargaining agreements and there are virtually no unions in the country's six free trade zones and industrial parks.

1. Right to Organize and Bargain Collectively

a. Law provides no protection against employer retaliation against workers attempting to organize union. (Petition cites a number of examples)

b. Law allows employers to organize competing organizations known as solidarista associations that in practice "negotiate" collective agreements.

(ILO defines solidarista associations as "associations of workers which are set up dependent on a financial contribution from the relevant employer and which are financed in accordance with the principles of mutual benefit societies by both workers and employers for economic and social purposes of material welfare and of unity and co-operation between workers and employers.")

The legal mechanism used by employers is the "arreglo directo" or direct agreement". Under the Labor Code (Art. 497) Any group of workers is allowed to establish a "Permanent Workers Committee," which can sign a direct agreement with management, which becomes binding and removes any obligation to bargain collectively with unions.

ILO investigation in 1991 concluded that management use of solidarism is a violation of freedom of association because the solidarista associations, to which employers belong, assume many of the functions of trade unions.

c. Public sector workers are prohibited from bargaining collectively.

d. Workers in both sectors face heavy fines and jail sentences for exercising their right to strike.

2. Worker Rights and Standards in the Free Trade Zones

a. Minimum wage is not paid in accordance with law.

b. Working hours are excessively long.

c. In textile plants young persons (15-17) work 12 hour shifts. Legal maximum is 7 hours and one extra hour.

d. Occupational safety and hygiene measures do not meet the needs of workers.

- e. Cases of verbal and physical abuse and sexual harassment.
- f. Overtime payment not paid in accordance with law (1 1/2 ordinary pay.)
- g. Excessive reduction of time for rest (lunch and coffee.)

In response to earlier complaints and ILO findings addressing these issues, the Government of Costa Rica made an agreement with labor unions and the AFL-CIO's representative in Costa Rica on October 22, 1992, to take the following steps. -

- a. Drafting and submitting to legislature of a new law would prohibit employers from firing, harassing or otherwise taking reprisals against workers for attempting to form unions or engaging in legitimate union activities, and in interim to adopt interim decrees to ensure compliance with ILO Conventions 87 and 98.

Result: No such law has been drafted. No decrees have been issued.

- b. Removing criminal penalties for striking.

Result: New law submitted to legislature, but low on government's priorities for action.

- c. Ratification of new ILO Conventions, including right of government employees to collective bargaining.

Result: No conventions submitted to legislature; deprivation by Supreme Court of collective voluntary arbitration for public employees through the labor courts, which deprives public workers of the mechanism that has hitherto substituted for collective bargaining.

- d. Prohibition of collective bargaining by management-controlled solidarista groups.

Result: New regulation, but because of lack of unions in private sector, the number of "direct agreements" with solidarista groups under management control has grown.