

IGWG 7th Session - Global Union Comments:

Article 7

Thank you, Chairperson. I speak on behalf of the global trade union organisations: ITUC, BWI, EI, IndustriAll, ITF, IUF, PSI, and UNI.

I have two proposed textual amendments.

Regarding Article 7.2, we think that it would be useful to explicitly refer to the judicial process of disclosure or discovery. With our proposed amendment, Article 7.2 would read

States Parties shall ensure that their domestic laws facilitate **disclosure OR discovery** and access to information, including through international cooperation, as set out in this (Legally Binding Instrument), and enable courts to allow proceedings in appropriate cases.

Finally, Chairperson, in relation to Article 7.5,

it refers to *allowing judges* to “reverse of the burden of proof”. This is usually not a matter that should be left to individual judges but one that is regulated in national legislation. The article should be strengthened and clearly require ratifying States Parties to provide for the “shifting of the burden of proof”. This is an important provision with respect to labour rights given that there is a significant imbalance between companies and their workers with regard to access to relevant information. This is also why we requested an amendment to Article 7.2.

So, with our amendment, Article 7.5 would read:

States Parties shall enact or amend laws ~~allowing judges~~ to reverse the burden of proof in appropriate cases to fulfill the victims’ right to access to remedy where consistent with international law and its domestic constitutional law.

Thank you, Chairperson.